



# A REVIEW OF THE GOVERNMENT INDIA ACT, 1935

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## Abstract

This article examines the Government of India Act, 1935. It emphasises on the beginnings of the Act, its genesis, the context within which it was introduced and its key aspects. Why was this Act important, especially in the context of a rising nationalist movement in the Indian subcontinent? In the aftermath of the civil disobedience movement, what were the risks and challenges that British governance in India faced? The demand for separate electorates was an important part of the Act. This essay therefore, seeks to examine some of these issues critically and thereby unveil the politics of colonial law and its fractured afterlives- some of which are replicated by the post-colonial nation state of India. The government of India Act will be referred to as GOI, 1935 throughout the paper.

## Keywords

**Government of India Act, Simon Commission, Parliament, Dyarchy, Nehru Report**

## Introduction

The GOI, 1935 legislation was the lengthiest Act passed by the British Parliament after its domination over India. It was the outcome of a very long process that started when the Simon Commission was appointed to look into the matter which was not satisfied by the Indian politicians. Dyarchy system that was introduced by the GOI, 1919 (the “1919 Act”) did not go according to the East India Company Officials, which was passed by the British Parliament.

The Indian politicians knew at the time that the though on paper the areas were given to the Indian provisional government but actually they were still in the hands of the British. The British still held control over them. In order to check the intervention of the British in Indian matters the earlier Act was considered to be simply inadequate for the Indians and thus the British came up with the new revised Act. So, to review this matter and to make changes this had been given to the Simon Commission.

The report of the Simon Commission proposed to scrap the dyarchy system and in its place that of, 'responsible government in the province' was sought to be introduced. This report brought us one step closer to the establishment of the Government of India Act, 1935 (the "1935 Act"). The material extracted from the 1935 Act not only came from the Simon Commission Report but also different sources as well. These sources were the Third Round Table Conference, reports of the Joint Select Committee and the White Paper of 1933.

This Act gives many salient features out of which some has been considered as the major ones and some as the minor ones.

The Act just because of its propositions was superior or maybe conducive for the Indian ruling class. The British had proposed to unite such a diverse land into one nation. The repercussions of which can still be heard in the Kashmir issue and the issue in the North Eastern states. The technical language of the time was that India should be comprised or constituted by princely states and the several provinces. This time dyarchy was not introduced at the state level it only introduced at the central level. A federal court was established after the recommendation of this Act. This court was introduced after two years of the passing of this Act, i.e., 1937. This Act provides the recommendation for the establishment of the Reserve Bank of India to control the regulation of currencies and credits of this country. After the establishment of this Act, the Council of India that was established by the Government of India Act, 1858 was abolished. Muslims, Sikhs, and others excluding the innumerable lower castes were given their own electorates. The Act expanded the universal franchise of voting from 3% to 14% of the population which was later in the year 1947 was to be awarded to everyone above the age of 18. The Governor was given the extraordinary powers of Critical Emergency whose echoes were again to be heard in the 1970s with Indira Gandhi imposing or declaring Emergency. No doubt the powers were enjoyed by only one individual then also and later also in so called Independent India.



### **Genesis of the Act**

The Government of India Act 1935 was the outcome of a number of acts of which the mains stages were:

Legislature of India Act 1858, under which India turned into a conventional Crown province and the British government took over regulatory capacities from the British East India Company, following the Sepoy Mutiny in 1857;

Legislature of India Act 1909 which presented the elective rule;

Legislature of India Act 1919 which presented commonplace dyarchy for example a few "country building" subjects, like training, would be in the possession of clergymen instructing support in the common assembly while the centre subjects for example, the rule of law and money, were in the charge of authorities selected by, and mindful to, the lead representative and eventually to the British Parliament;

Simon Commission which proposed completely capable government in the areas;

Indian Round Table Conferences 1931-1933 which concurred that both British India and the Princely States would be incorporated into an inevitable united Dominion of India. Notwithstanding, Congress and the Muslims couldn't agree on how this league ought to be organized for example how power was to be shared and how the minority Muslims were to be shielded from Hindu abuse. This absence of arrangement left the Conservative-overwhelmed British government allowed to draft administrative proposition (the white paper) in accordance with its own perspectives. A joint advisory group, led by Lord Linlithgow, which checked on the white paper proposition at extraordinary length. Based on this white paper, the Government of India Act, 1935 was outlined. At the board of trustees' stage and later, to mollify the stalwarts, the "shields" were reinforced and circuitous races, were restored for the Federal Assembly (Lower House). In addition to other things, the Act kept on denying Indians the option to draft, or change, their own constitution.

### **Context of the Act**

Indians had progressively been requesting a more noteworthy job in the public authority of their country since the late nineteenth century. The Indian commitment to the British conflict exertion during the First World War implied that even the safer components in the British political foundation felt the need of protected change, bringing about the Government of India Act 1919. That Act presented a clever arrangement of government known as commonplace "diarchy", i.e., certain spaces of government (like instruction) were put in the possession of priests mindful to the common council, while others (like public request and money) were held in the possession of authorities capable to the British-selected common Governor. While the Act was an impression of the interest for a more noteworthy job in government by Indians, it was likewise a lot of an impression of British feelings of trepidation regarding what that job may mean practically speaking for India (and obviously for British interests there). The test with dyarchy demonstrated inadmissible. A specific disappointment for Indian legislators was that in any event, for those spaces over which they had acquired ostensible control, the "handbag strings" were as yet in the possession of British officialdom. The expectation had been that an audit of India's protected game plans would be held ten years on from the 1919 Act. In the occasion, the audit was directed early by the Simon Commission, whose report proposed the rejecting of diarchy, and the presentation of a lot bigger level of dependable government in the regions. This proposition was questionable in Britain, exhibiting the quickly augmenting bay among British and Indian sentiments concerning the attractiveness, degree, and speed of progress towards, the guaranteed arrangement of self-government contained in the 1919 Act's prelude. Albeit the Simon Commission had taken proof in India, it had met with resistance there, and its decisions weren't acknowledged by Congress (the biggest ideological group). While trying to include Indians all the more completely in working out another sacred system, a progression of Round Table Conferences was then held in the mid-1930s, went to, now and again by agents from India's really ideological groups, just as from the royal states. The understanding was reached on a basic level that an administrative arrangement of government ought to be presented, involving the areas of British India and those regal states that were ready to agree to it. In any case, the division among Congress and Muslim agents ended up being a central point in

forestalling settlement on a significant part of the significant detail of how organization would function by and by.

The new Conservative-ruled National Government in London chose to proceed with drafting its own recommendations (white paper, March 1933). A joint parliamentary select advisory group, led by Lord Linlithgow, audited the white paper proposition for eighteen months between April 1933 and November 1934, in the midst of much resistance from Winston Churchill and other backbench Conservatives. The House of Commons endorsed the Joint Select Committee report in December after an emollient discourse by Conservative pioneer Stanley Baldwin, who expressed that he regarded the principled situation of the bill's rivals and that he didn't wish sentiments in his own party to turn out to be for all time embittered.

In view of the white paper, the Government of India Bill was outlined. It was gigantically long, containing 473 provisos and 16 timetables, and the reports of the discussions took up 4,000 pages of Hansard. At the advisory group stage and later, to mollify the fanatics, the "shields" were reinforced, and backhanded races were re-established for the Central Legislative Assembly (the focal governing body's lower house). The resistance Labour Party went against the Third Reading of the bill since it contained no particular guarantee of domain status for India. It got Royal Assent and was passed into law on 2 August 1935. Because of this cycle, albeit the Government of India Act 1935 was planned to go some way towards fulfilling Indian needs, both the detail of the bill and the absence of Indian association in drafting its substance implied that the Act met with a tepid reaction, best case scenario, in India, while as yet demonstrating excessively extremist for a huge component in Britain.

### Features of the Act with reviews/commentary

#### No preamble

While it had become extraordinary for British Acts of Parliament to contain a prelude, the shortfall of one from the Government of India Act 1935 differentiations pointedly with the 1919 Act, which set out the expansive way of thinking of that Act's means to Indian political turn of events. That Act's prelude cited, and focused on, the articulation of the Secretary of State for India, Edwin Montagu, to the House of Commons on 20 August 1917, which vowed "the steady advancement of self-overseeing foundations, with a view to the dynamic acknowledgment of dependable government in India as a vital piece of the British Empire".

Indian requests were at this point centring on British India accomplishing established equality with the current Dominions (Australia, Canada, the Irish Free State, New Zealand and the Union of South Africa) which would have implied total independence inside the British Commonwealth. A huge component in British political circles questioned that Indians were fit for running their country on this premise, and considered Dominion status to be something that may, maybe, be focused on after an extensive stretch of steady established turn of events, with adequate "shields".

This pressure between and inside Indian and British perspectives brought about the cumbersome trade off of the 1935 Act having no introduction of its own except for keeping set up the 1919 Act's prelude even while cancelling the rest of that Act. Obviously, this was found in India at this point additional blended messages from the British, recommending, best case scenario, a tepid disposition and to say the least proposing a "base essential" approach towards fulfilling Indian longings.

### **No bill of rights**

Just the same as Commonwealth protected enactment of the time, the Act did exclude a "bill of freedoms" inside the new framework that it intended to build up. Notwithstanding, on account of the proposed Federation of India, there was a further confusion in consolidating such a bunch of privileges, as the new element would have included ostensibly sovereign (and by and large dictatorial) royal states. An alternate methodology was considered by a few, however, as the draft layout constitution in the Nehru Report included such a bill of privileges.

### **Nature of representative government**

A nearby perusing of the Act uncovers that the British Government furnished itself with the legitimate instruments to reclaim complete control whenever they believed this to be attractive. Nonetheless, doing as such without valid justification would absolutely sink their believability with bunches in India whose help the demonstration was pointed toward getting. Some differentiating sees:

"In the national government... the similarity to dependable government is introduced. Be that as it may, the fact of the matter is missing, for the powers in safeguard and outside undertakings essentially, as issues stand, given to the lead representative general breaking

point crucially the extent of clerical action, and the proportion of portrayal given to the leaders of the Indian States negatives any chance of even the beginnings of vote-based control. It will involve the greatest amount important to watch the improvement of a type of government so special; surely, assuming it works effectively, the most noteworthy credit will be because of the political limit of Indian pioneers, who have boundlessly more genuine challenges to look than had the pilgrim legislators who developed the arrangement of self-government which has now finished in Dominion status". Master Lothian, in a discussion enduring 45 minutes, came straight out with his view, not on the Bill:

"I concur with the fanatics that it has been an acquiescence. You who are not used to any constitution can't understand what incredible power you will employ. Assuming that you check out the constitution maybe every one of the powers are vested in the Governor-General and the Governor. However, isn't each power here vested in the King? Everything is done for the sake of the King yet does the King at any point meddle? When the power passes under the control of the assembly, the Governor or the Governor-General is never going to meddle. ... The Civil Service will be useful. You also will understand this. When a strategy is set down, they will complete it steadfastly and loyally...

We were unable to help it. We needed to battle the stalwarts here. You were unable to acknowledge what extraordinary fortitude has been shown by Mr Baldwin and Sir Samuel Hoare. We would have rather not extra the stalwarts as we needed to talk in an alternate language...

These different gatherings – and at the appropriate time G.D. (Birla), before his return in September, met for all intents and purposes everybody of significance in Anglo-Indian issues – affirmed G. D's. unique assessment that the contrasts between the two nations were generally mental, similar proposition open to went against translations. He had not, presumably, taken in before his visit how extensive, according to British moderates, the concessions had been... If nothing else, progressive discussions clarified to G.D. that the specialists of the Bill had basically as weighty chances against them at home as they had in India.

### **Provincial matter**

The common piece of the Act, which became real naturally, essentially followed the Simon Commission suggestions. Commonplace dyarchy was nullified; that is, all commonplace portfolios were to be set accountable for clergymen partaking in the help of the commonplace councils. The British-selected commonplace lead representatives, who were capable to the British Government through the Viceroy and Secretary of State for India, were to acknowledge the suggestions of the priests except if, in their view, they contrarily impacted his spaces of legal "extraordinary obligations" like the anticipation of any grave threat to the harmony or serenity of a region and the defending of the authentic interests of minorities. In case of a political breakdown, the lead representative, under the oversight of the Viceroy, could assume control over absolute control of the commonplace government. This, indeed, permitted the lead representatives a more unhampered control than any British authority had appreciated throughout the entire existence of the Raj. After the renunciation of the Congress common services in 1939, the lead representatives did straightforwardly administer the ex-Congress regions all through the conflict. It was by and large perceived that the common piece of the Act gave a lot of force and support on commonplace legislators as long as both British authorities and Indian lawmakers carried on reasonably. In any case, the paternalistic danger of the intercession by the British lead representative bothered Indian patriots.

### **Conclusion**

The GOI, 1935 was the lengthiest Act that was made before the year 1935. The whole document with various parts such as 321 sections, 14 other parts and 10 schedules separately is indeed a document whose sheer volume or length indicates or maybe points to the painstaking work done by the British colonisers to rule Indian people. There were many other features which were introduced for the first time in the history of this particular document such as the establishment of All India Federation with provincial autonomy added with safeguards and reservations.

These features were important for the Britishers but Indian politicians were not happy with these features although some features were adopted by the drafters of the Indian Constitution in free India. The GOI, 1935 was a rigid one. It could not be amended or modified by any Indian legislature; either he was Federal or Provincial Legislature. This Act gave nearly 10% of voters the right to vote.

The history of the constitution can be traced back to 1861 Act or if one wants to be precise the first document of such type can be the regulation Act of 1773 in India. Nevertheless the GOI, 1935 remains a seminal document in the constitutional history because of some very fundamental ideas which were copied or transferred as it as to the Indian subcontinent. No other document shares such startling similarity to the Indian Constitution than the GOI, 1935. Another similarity was the fact that the GOI, 1935 Act and the constitution both wanted to establish an All India Federation without excluding the provisions under the sovereignty of the British Crown. But the difference was that despite similarities the Indian politicians at that time were not satisfied with the document and expressed their opinion about it as being short of the aspirations of crores of Indian people. The British also on the other hand were very adamant in maintaining their hegemony over the Indian ruling class and then brought into play the most communal and conservative elements of the Indian society. The plan of the setting up of the Federation of India was such that it could come to function only if the princely states would have as many seats in the upper house of the federal structure. Because of this reason the government kept functioning under the rule of the 1919 Act. Despite that few practical necessity for the period were materialized. For example the Federal Bank and the Federal court were begun in the year 1935 and 1937 respectively. The GOI, 1935 was applied gradually. In the year 1937 on 1<sup>st</sup> April the provincial autonomy Act came into existence and started functioning. In the same year the first elections of the country were also held.

In retrospect one can't deny the fact that the GOI, 1935 was a very important event in Indian history for various reasons. The most important of them all was that the GOI, 1935; after taking it into account one starts doubting the narrative of the Indian Independence as such. The British had as back as 1935 had started preparing for leaving the country but with some fundamental structures which even today hold sway over the Indian population. The GOI, 1935 was a result of several rounds of meetings with the Indian politicians led by the Congress party. Because of this Act India was transformed into a federal structure. The rules and regulations for structure of government, legislation were also put into practice. Elections were conducted; the right to vote was extended to all and sundry, etc. etc. To sum it up the British if they are to be seen from their national philosophical character, they were far ahead of the Indian people, they left their structures which continue to be the strongholds of imperial domination till now.

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