

Historical Background of Indian Constitution

- The East India Company which came to India in 1600 managed to capture substantial administrative power in 1765 (in the aftermath of Battle of Buxar when British got revenue and civil justice rights for Bengal, Bihar and Odisha).
- The trading company since then consolidated its power in such a way so as to reach the nooks and corners of our country.
- The success of the British in India was primarily due to the administrative system they put in place through various statutes.
- Many regulations and legislation passed before India's independence can be traced back to the Constitution.

The Indian Constitution's evolution can be divided into two categories:

- The Company Rule (1773–1858) is a set of rules that governs how businesses are run.
- The Crown Rule (1858–1947) was a period of British rule that lasted from 1858 until 1947.

The Company Rule (1773–1858):

Regulating Act of 1773:

- The first step was taken by the British Parliament to control and regulate the affairs of the East India Company in India.
- It designated the **Governor** of Bengal (Fort William) as the **Governor-General (of Bengal)**.
- Warren Hastings became the first Governor-General of Bengal.
- Executive Council of the Governor-General was established (Four members). There was no separate legislative council.
- It subordinated the Governors of Bombay and Madras to the Governor-General of Bengal.
- The Supreme Court was established at Fort William (Calcutta) as the Apex Court in 1774.
- It prohibited servants of the company from engaging in any private trade or accepting bribes from the natives.

- Court of Directors (the governing body of the company) should report its revenue.

Pitt's India Act of 1784:

- Distinguished between commercial and political functions of the company.
- Court of Directors for Commercial functions and Board of Control for political affairs.
- Reduced the strength of the Governor General's council to three members.
- Placed the Indian affairs under the direct control of the British Government.
- The companies territories in India were called "the British possession in India".
- Governor's councils were established in Madras and Bombay.

Charter Act of 1813:

The Company's monopoly over Indian trade terminated; Trade with India open to all British subjects.

Charter Act of 1833:

- **Governor-General (of Bengal)** became the Governor-General of India.
- First Governor-General of India was Lord William Bentick.
- This was the final step towards centralization in British India.
- Beginning of a Central legislature for India as the act also took away legislative powers of Bombay and Madras provinces.
- The Act ended the activities of the East India Company as a commercial body and it became a purely administrative body.

Charter Act of 1853:

- **The legislative and executive functions of the Governor-General's Council were separated.**
- 6 members in Central legislative council. Four out of six members were appointed by the provisional governments of Madras, Bombay, Bengal and Agra.

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- It introduced a system of open competition as the basis for the recruitment of civil servants of the Company (Indian Civil Service opened for all).

The Crown Rule (1858–1947):

Government of India Act of 1858:

- The rule of Company was replaced by the rule of the Crown in India.
- The powers of the British Crown were to be exercised by the Secretary of State for India
- He was assisted by the **Council of India**, having 15 members
- He was vested with complete authority and control over the Indian administration through the Viceroy as his agent
- The Governor-General was made the Viceroy of India.
- Lord Canning was the first Viceroy of India.
- Abolished Board of Control and Court of Directors.

Indian Councils Act of 1861:

- It introduced for the first time Indian representation in the institutions like Viceroy's executive + legislative council (non-official). Three Indians entered the Legislative council.
- Legislative councils were established in Center and provinces.
- It provided that the Viceroy's Executive Council should have some Indians as the non-official members while transacting the legislative businesses.
- It accorded statutory recognition to the portfolio system.
- Initiated the process of decentralisation by restoring the legislative powers to the Bombay and the Madras Provinces.

India Council Act of 1892:

- Introduced indirect elections (nomination).
- Enlarged the size of the legislative councils.
- Enlarged the functions of the Legislative Councils and gave them the power of discussing the Budget and addressing questions to the Executive.

Indian Councils Act of 1909:

- This Act is also known as the Morley- Minto Reforms.
- Direct elections to legislative councils; first attempt at introducing a representative and popular element.
- It changed the name of the Central Legislative Council to the Imperial Legislative Council.
- The member of the Central Legislative Council was increased to 60 from 16.
- Introduced a system of communal representation for Muslims by accepting the concept of ‘separate electorate’.
- **Indians for the first time in Viceroy's executive council.** (Satyendra Prasanna Sinha, as the law member)

Government of India Act of 1919:

- This Act is also known as the Montague-Chelmsford Reforms.
- The Central subjects were demarcated and separated from those of the Provincial subjects.
- The scheme of dual governance, ‘Dyarchy’, was introduced in the Provincial subjects.
- Under the dyarchy system, the provincial subjects were divided into two parts – transferred and reserved. On reserved subjects, Governor was not responsible to the Legislative council.
- The Act introduced, for the first time, **bicameralism at the Center.**
- **Legislative Assembly** with 140 members and **Legislative council** with 60 members.
- The Act provided direct elections.
- The Act also required that the three of the six members of the Viceroy's Executive Council (other than Commander-in-Chief) were to be Indians.
- Provided for the establishment of the Public Service Commission.

Government of India Act of 1935:

- The Act provided for the establishment of an All-India Federation
- It consisting of the Provinces and the Princely States as units.

- Though the envisaged federation never came into being.
- **Three Lists:** The Act divided the powers between the Centre and the units into items of three lists,
 - Federal List
 - Provincial List and
 - Concurrent List
- The Federal List for the Centre consisted of 59 items.
- The Provincial List for the provinces consisted of 54 items.
- The Concurrent List for both consisted of 36 items.
- The residuary powers were vested with the Governor-General.
- The Act abolished the Dyarchy in the Provinces and introduced 'Provincial Autonomy'.
- It provided for the adoption of Dyarchy at the Centre.
- Introduced bicameralism in 6 out of 11 Provinces.
- These six Provinces were Assam, Bengal, Bombay, Bihar, Madras and the United Province.
- Provided for the establishment of Federal Court.
- Abolished the Council of India.

Indian Independence Act of 1947:

- **Attlee's Announcement:** The legislation was drafted by the Labour Government of Clement Attlee.
- It is based totally on the Mountbatten Plan or the 3rd June Plan which turned into formulated after the leaders of the Indian National Congress and the Muslim League agreed to the suggestions of the Viceroy Lord Mountbatten.
- The Prime Minister of the UK introduced on 20 February 1947 that the British Government would grant self-government to British India by June 1948.
- **3 June Plan:** This was also known as the Mountbatten Plan.
- The British authorities proposed a plan introduced on three June 1947.

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- The Indian Independence Act 1947 turned into the implementation of the 3rd June Plan.
- The Act determined to furnish independence to India and Pakistan with impact from 15th August 1947.
- The new boundaries of the dominions could be demarcated by the Boundary Commission.
- British suzerainty over the princely states turned to an end. These states ought to determine whether to enroll in both India and Pakistan or stay independent. Over 560 states are determined to merge with India.
- Until the brand new dominions' constitutions could emerge as effective, the heads of the nation will be the respective Governor-Generals who could retain to assent law passes with the aid of using the Constituent Assemblies in the name of the king.
- This Act obtained royal assent on 18th July 1947 and entered into force.

