



VALUE ADDED NOTES

ILP-2020



IASBABA

Contents

HISTORICAL BACKGROUND.....	4
SCHEDULES.....	27
PREAMBLE.....	40
UNION & TERRITORIES.....	44
CITIZENSHIP.....	49
FUNDAMENTAL RIGHTS.....	55
Article 14-18 Right to Equality (14-18).....	61
Article 19-22: Right to Freedom.....	67
Article 25 - 28: Right to Religious Freedom	78
Article 29 and 30: Cultural and Educational Rights.....	81
Armed Forces And Fundamental Rights	86
Effecting Certain Fundamental Rights	86
Criticism Of Fundamental Rights	87
Significance Of Fundamental Rights	88
DIRECTIVE PRINCIPLES OF STATE POLICY (DPSP).....	89
Features of the Directive Principles.....	89
Criticism to DPSP	97
Significance of Directive Principles	98
INTER-RELATIONSHIP BETWEEN FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES	101
IMPLEMENTATION OF DIRECTIVE PRINCIPLES.....	103
FUNDAMENTAL DUTIES	105
List of FDs in Article 51 A	106
Features of the FDs	106
Criticism of FDs	108
Significance of FDs	108
Relationship between Fundamental Rights and Fundamental Duties	109
AMENDMENT OF THE CONSTITUTION.....	111
Procedure for Amendment as laid down in Article 368 Part XX.....	111
Types of Amendments	111
Criticism of the Amendment Procedure	117
Important Amendments	118
Important Supreme Court judgments.....	128
BASIC STRUCTURE OF THE CONSTITUTION.....	130

Amendment and the Fundamental Rights.....	131
ELEMENTS OF THE BASIC STRUCTURE	132
Significance of the Basic Structure.....	133
Critiques	134



HISTORICAL BACKGROUND

Note- You have already covered the basics of Indian Polity in previous module where the focus was on NCERT.

‘Historical Background’ is important for both Prelims and Mains. You will encounter this even in Modern History- Coming of Europeans- British Government and its Policies.

Points to know:

1. British came to India in 1600 as traders (EAST INDIA COMPANY-EIC had purely trading functions)
2. In 1765, EIC obtained '**diwani rights**' -- Shah Alam granted these rights after losing the **battle of Buxar** against EIC → This started its career as a territorial power.
3. Revolt of 1857 - also known as the **First War of Independence** or the 'sepoy mutiny'
4. **In 1858 - British Crown assumes direct responsibility** for the governance of India. i.e. Company rule ends and Crown rule starts.
5. Crown rule continues until India was granted independence on August 15, 1947

Why we have to study this chapter?

1. This chapter is highly important and favorite of UPSC. Every year there are questions from this chapter (both Prelims and Mains)
2. Various features of our Indian Constitution and polity have their roots in the British rule. So, as an aspirant, it is important to know certain events that laid down the legal framework for the organization and functioning of government and administration in British India.
3. Also it is important to study these events as they have greatly influenced our constitution and polity **(Have some moral responsibility to know about our nation ☺)**

Common problem faced by aspirants:

- There are so many events, how will I remember?
- There are so many features in each Act. How will I remember till long time? I get confused. ☹
- Polity is boring. I keep forgetting. **“The rate of evaporation is way too high” :P**

Solution: It is always easy to remember things in story or pictures. Hence, this material is prepared on these lines. Hope it helps.

1. First let us observe the above figure/time-line carefully. Can you identify two rules? – **THE COMPANY RULE (1773–1858)** and **THE CROWN RULE (1858–1947)**
2. Now think – What are these rules? Even though EIC came in 1600, there were no such rules and why this Company rule started suddenly in 1773?

Try to remember 3 Acts under these two rules:

COMPANY RULE (1773–1858)	CROWN RULE (1858–1947)
1. Regulating Act	1. Government of India Acts
2. Pitt's India Act	2. Indian Council Acts
3. Charter Acts	3. Indian Independence Act

THE COMPANY RULE (1773–1858)

By 1773, the East India Company was in dire financial troubles, as they faced competition from other countries and also was facing difficulties to maintain monopoly.

The Company was important to the British Empire because it was a monopoly trading company in India and in the east and many influential people were shareholders.



Now, these shareholders (some of them were Parliamentarians) thought –

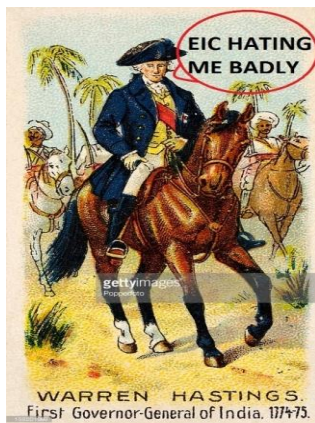
“What shall we do with this EIC? They are not able to bring enough profits and unable to meet its commitments. Let us make an Act to take over the management of the East India Company's rule in India.”

“Yes, let us have some control and regulation on EIC – hmm.. let us call it Regulating Act”.

Regulating Act of 1773

Why this Act is important?

1. It was the first step taken by the British Government to control and regulate the affairs of the EIC in India.
2. First time, British government recognized the political and administrative functions of the EIC.
3. British government laid the foundations of central administration in India.



Features of the Act:

1. The Act designated the Governor of Bengal as the '**Governor-General of Bengal**' and created an Executive Council of four members to assist him.

The first such Governor-General was **Lord Warren Hastings** (1774-1785).

How to remember? – Till this Act, EIC was enjoying in India without any control. But now an executive came to control them. So EIC started HATING him. (HATING → HASTING) →

Warren Hastings :P

2. Governor of Bengal was made 'Governor-General of Bengal' and governors of Bombay and Madras presidencies were made his subordinates. (so these governors were also "HATING" him)
3. Since he was hated, there were fights throughout the year. To solve this, **the Act provided for establishment of Supreme Court (1774).**
4. Real objective was to control and manage corrupt EIC → so the Act prohibited servants of EIC from engaging in any private trade or accepting bribes and gifts from native.
5. The Act told the governing body of the Company i.e. Court of Directors to report all its affairs (revenue, civil, military etc) to British Government.

Crux: (Regulating Act)

Regulating Act was passed by British Government for controlling and regulating affairs of EIC → as they enjoyed unlimited political and administrative functions → so need for central administration → Governor General of Bengal + 4 Executive Council members + 2 subordinate governors (Madras and Bombay) → HASTINGS starts → need for Supreme Court → control EIC = No pvt. trade and bribes → Court of Directors should report all affairs to British government.

So did the Regulating Act help?

- No, there was some loop holes. EIC's Court of Directors (COD) was only corrupt.
- So, in 1781, British government called COD to inquire about this and tried to rectify the defects of Regulating Act.
- However, COD bribed British Government and made an Act of Settlement requesting the government to stay silent for few years.

Pitt's India Act of 1784

Again the British Government wanted to rectify the defects of the Regulating Act of 1773, so they passed Pitt's India Act of 1784.

Why the name "PITT"? The then Prime Minister of British was William Pitt.

1. The Act knew EIC's COD was corrupt, so it decided to reduce its powers. So Act distinguished commercial and political functions of the EIC.
2. Now, COD will look after commercial functions only and a new body, Board of Control (BOC) will take care of political functions.
3. We shall call it "system of double government" (COD+BOC)
4. The Act empowered BOC to supervise, direct all operations (civil and military) or revenues of the "**British possessions**" in India.
5. Hence, British Government was given the supreme control over Company's affairs and its administration in India.

Crux: Pitt's India Act

- Regulating Act of 1773 had defects → Act of Settlement in 1781 → Pitt's India Act 1784 (to rectify the defects)
- Commercial and Political functions of EIC was divided → COD to control commercial and BOC to control Political → BOC was empowered more to look after "British Possessions" → with this, British government gained supreme control over EIC's affairs

But still COD has some powers in regard to commercial. So, final step **towards centralization in British India was made by Charter Acts.**

Since, in Pitt's India Act, they called "British Possessions" first time, the British government decided to prepare "CHARTS" to highlight its possession of British India.

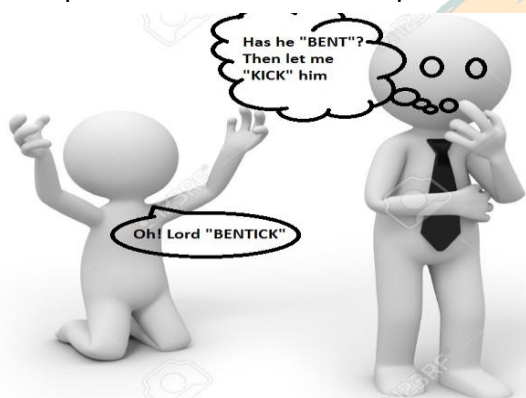
Charter Act of 1833

Features:

1. Here, the Government decided - instead of Governor General of Bengal (GGB), let us make Governor General of India (GGI) for entire territorial area possessed by the British in India.
2. So the Act made GGB as GGI. It vested all civil and military powers to GGI.
3. The GGI was given exclusive legislative powers for the entire British India.
4. This first GGI was so powerful; he **"BENT"** everyone to his knees and **"KICKED"** them.

Lord **William "BENTINCK"** was the **first Governor-General of India**.

5. This Act ended all the activities of the East India Company as a commercial body.
6. EIC was left as purely administrative body (implement what the government says)
7. Charter Act of 1833 attempted to introduce a system of open competition for selection of civil servants (including Indians), but COD pleaded – please negate this provision at least. So this provision was negated.



Crux: Charter Act 1833

- Pitt's India Act created 'system of double government' → Commercial and Political functions were divided → COD + BOC
- But now in Charter Act of 1833 → All powerful GGI was created for entire British India → Legislative powers of governors of Madras and Bombay was deprived → Both

Executive and exclusive Legislative powers also to GGI → EIC is no more a commercial body, now just an administrative body → 1st attempt towards CSE open to Indians also (but this attempt failed)

Charter Act of 1853

Features of the Act

1. GGI alone could not do all the work. So the legislative and executive functions of the Governor-General's council were separated for first time.
2. The Act created a separate GG Legislative Council – called "Indian (Central) Legislative Council". For the first time, local representation was allowed in the Indian (Central) Legislative Council.
3. This Indian (Central) Legislative Council acted as a mini-Parliament (on same lines of British Parliament)

4. Thus, legislation, for the first time, was treated as a special function of the government, requiring special machinery and special process.
5. Now, it needed good civil servants to help framing and implement the legislation. This Charter Act of 1853 introduced an open competition system of selection and recruitment of civil servants (open to Indians also) 😊
6. This Act extended the Company's rule and allowed it to retain the possession of Indian territories on trust for the British Crown.
7. But it did not specify any particular period, unlike the previous Charters. This was a clear indication that the Company's rule could be terminated at any time the Parliament liked.

Crux: Charter Act 1853

Charter Act of 1833 gave full powers to GGI = Executive + Legislative → To make things simple, Charter Act of 1853 first time separated L and E function → created separate body "Indian (Central) Legislative Council" or mini-Parliament → Act also allowed local representation to this Legislative council → CSE was open to all, including Indians → The Act allowed EIC to retain the possession of Indian territories but for first time, it did not specify particular time → indicating any time Company's rule could be terminated.

From the above events we could see how British Government made steady progress to control EIC affairs and how the government laid foundation for full centralization.

Revolt of 1857 or Sepoy Mutiny:

By 1857, the British followed an expansionist policy in India. The policies made by GGIs adversely affected every section of the Indian society. This led to one of the important events of Indian history -- the Revolt of 1857. It was the first rebellion against the East India Company which took the massive form.

(There were many causes, which you will study in History)

So, due to this Mutiny or Revolt, the British decided to enact an act, known as the **Act for the Good Government of India**.

The Crown Rule (1858-1947)

Now all Acts were called as either Government of India (GOI) Acts or Indian Council Acts.

Government of India Act of 1858 (or Act for the Good Government of India):

This Act abolished the East India Company, and transferred the powers of government, territories and revenues to the British Crown. The Company Rule was ended in 1858. The Crown Rule began.

Features of the Act

1. India will be governed by Crown Rule (Her Majesty)
2. The designation GGI was changed to Viceroy of India (VOI). Lord Canning became the first Viceroy of India.



Who "CAN" be the 1st Viceroy of India?
Who? Who "CAN" it be?



I "CAN" my majesty
Because I am "CAN-NING"

**How to remember?**

When India's governance was transferred from Company's Rule to Crown's Rule, her Majesty was thinking –

"Who CAN be the best suitable candidate for VOI?"

A person came forward telling **"I CAN"** because my name starts with **"CAN"**. I am **CAN-NING** :P

Lord CANNING

1. Government of India Act of 1858 ended the 'system of double government' of Pitt's India Act of 1784 (i.e. it abolished COD + BOC)
2. Instead it created new office "Secretary of State for India" (SOS) – so COD's administrative authority and control was given to SOS.

3. This SOS was a member of the British cabinet and was responsible ultimately to the British Parliament.
4. The Act also created a 15-member Council of India to assist the secretary of state (SOS). However this Council was an advisory body.

GOI Act, 1858 was largely confined to the **improvement of the administrative machinery** by which the Indian Government was to be supervised and controlled in England.

It did not alter in any substantial way the system of government that prevailed in India.

Crux: GOI, 1858

- After 1857 revolt/sepoy mutiny → GOI Act 1858 was enacted to abolish EIC → powers of government, territories and revenues were transferred to the British Crown.
- GGI designation was changed to VOI (Lord Canning was first VOI) → system of double government was ended (No COD+BOC) → instead a new office SOS+15 member Council of India to assist the SOS was created → SOS was vested with complete authority and control over Indian administration.
- GOI, 1858 was intended to bring Good Government in India, alter the system of government in India → by improving the administration machinery → But it did not alter in any substantial way the system of government

Indian Councils Act of 1861, 1892 and 1909

We had seen that Charter Act of 1853 had created a separate Legislative Council called Indian (Central) Legislative Council.

After 1857 revolt, the British Government felt the necessity of seeking the **cooperation of the Indians in the administration** of their country.

In pursuance of this policy of association, three acts were enacted by the British Parliament.

Indian Councils Act of 1861

Features of the Act:

1. This Act made a **beginning of representative institutions** -- it associated Indians with the law-making process.
2. The Act provided that VOI should **nominate some Indians as non-official members** of his expanded legislative council.

(In 1862, Lord Canning, the then viceroy, nominated three Indians to his legislative council)

3. **Process of decentralization was initiated:** Legislative powers (legislative devolution) were restored to Bombay and Madras Presidencies.
4. It thus **reversed the centralizing tendency** that started from the Regulating Act of 1773.
5. This policy of legislative devolution grants almost **complete internal autonomy to the provinces**.
6. It also provided for the **establishment of new legislative councils** for Bengal, North-Western Frontier Province (NWFP) and Punjab
7. **'Portfolio' system was introduced** by Lord Canning – i.e. Indian Councils Act (ICA) 1861 transformed the VOl's executive council into a cabinet run on the portfolio system. Therefore, 6 members in executive council took charge of separate departments.
8. **Ordinance making power:** The Act empowered the VOl to make ordinance during an emergency. However, the life of such an ordinance was 6 months.

Crux: ICA, 1861

- There was need for Indian cooperation in law making process → so ICA 1861 provided for **"representative institutions"** → VOl should nominate some Indians as non-official members to his Legislative Council
- ICA 1861 provided for **"devolution of legislative powers to provinces"** (Bombay and Madras) → also established new legislative councils for other provinces → **"reversed the policy of centralizing tendency"** it followed
- ICA 1861 also introduced **"Portfolio system"** → charge of each department were given to members of executive council
- **"Ordinance making power"** to VOl during emergency

Indian Councils Act of 1892

Features:

1. Number of additional Indian (non-official) members in the Central and provincial legislative councils were increased. However still the official majority were non-Indians.
2. Functions of legislative councils were increased and gave them the power of discussing the budget and addressing questions to the executive.
3. **Nomination made on the recommendation:** Certain bodies like governors of provinces, Universities, zamindars and chambers could now recommend Indians for the nomination of non-official members.
4. The act made a limited and indirect provision for the use of election in filling up some of the nonofficial seats both in the Central and provincial legislative councils. However, the word "election" was, not used in the act.

Crux: ICA, 1892

- Number of Indian (non-official) members to Legislative Council was increased
- Functions of Legislative councils were also increased → power to discuss the budget and addressing questions to executive
- Certain bodies can recommend some Indians to be nominated as non-official members to Central and provincial councils → The Act made a limited and indirect provision for the use of election → but the word “election” was not used.

Indian Council Act 1909**Features:**

1. This Act is also known as Morley-Minto Reforms (Lord Morley was SOS and Lord Minto was VOI) → Remember **909** from 1909 and **MOM** from Morley-Minto. (9=M)
2. Increased the size of Legislative Councils (both central and provincial) from 16 to 60
3. It retained official majority in the Central Legislative Council but allowed the provincial legislative councils to have Indian non-official majority.
4. Increased the functions of Legislative councils at both levels → members were allowed to ask supplementary questions, move resolutions on the budget, and so on.
5. It provided (for the first time) for the “**association of Indians with the executive Councils**” of the Viceroy and Governors.
6. ICA 1909 introduced a **system of communal representation** for Muslims -- concept of ‘**separate electorate**’.

(Lord Minto came to be known as the Father of Communal Electorate.)

Crux: ICA, 1909

- 1909 → MOM → Morley-Minto Reforms → System of communal representation or concept of separate electorate was introduced
- ICA 1909 increased the size of legislative council from 16 to 60 at both central and provincial levels → however majority was maintained in central, provincial councils were allowed to have Indian non-official majority
- Powers and functions of LC were increased → members can ask supplementary questions, move resolutions on the budget

Government of India Act of 1919

In 1917 **Edwin Samuel Montague**, the then SOS made a historic declaration (called **August Declaration of 1917 or Montague Reforms**) defining the goal of British policies in India.

On August 20, 1917, the British Government declared, for the first time, that its objective was the “**gradual introduction of responsible government**” in India.

Important excerpt:

“Increasing association of Indians in every branch of administration, and the gradual development of self governing Institutions with a view to the progressive realization of responsible governments in India as an Integral part of the British Empire”.

The keyword was **Responsible Government** -- the rulers must be answerable to the elected representatives.

The Government of India Act of 1919 was thus enacted, which came into force in 1921. This Act is also known as Montagu-Chelmsford Reforms (Montagu was SOS and Lord Chelmsford VOI).

Features of the Act:

1. **Demarcation of separate central and provincial subjects:** Central and provincial legislatures can make laws on their respective list of subjects.
2. **Transferred and Reserved Subjects:** Provincial subjects were further divided into two parts - transferred and reserved subjects.
 - Transferred subjects were to be administered by the governor with the aid of ministers responsible to the legislative Council
 - Reserved subjects, on the other hand, were to be administered by the governor and his executive council without being responsible to the legislative Council
3. **Dyarchy or Double rule:** This dual scheme of governance was known as ‘**dyarchy**’ — which means **double rule**.
4. Upper House and Lower House: First time, **bicameralism and direct elections** in the country were introduced. (only at Centre)
5. **Three of the six** members of the Viceroy’s **executive Council should be Indian**.
6. Extended communal representation or separate electorate to Sikhs, Indian Christians, Anglo-Indians and Europeans.
7. It granted franchise to a limited number of people on the basis of property, tax or education.
8. It created a new office of the High Commissioner for India in London and transferred to him some of the functions hitherto performed by the Secretary of State for India.
9. It provided for the establishment of a public service commission (Hence, a Central Public Service Commission was set up in 1926 for recruiting civil servants.)

10. It separated, for the first time, provincial budgets from the Central budget and authorized the provincial legislatures to enact their budgets.
11. It provided for the appointment of a statutory commission to inquire into and report on its working after ten years of its coming into force.

Crux: GOI, 1919

- August Declaration of 1917 or Montague Declaration → Montague-Chelmsford Reform → **“gradual introduction of responsible government”** in India → more association of Indians in every branch of administration → development of self-governing institutions
- GOI Act 1919 → Montague-Chelmsford Reforms → Separate subject for Centre and Province → Provincial subjects divided into two – Transferred and Reserved subjects → Transferred = Governor+ministers (responsible to Legislative Council) → Reserved = Governor+Executive council (not responsible to Legislative Council) → **“introduction of diarchy” or double rule**
- GOI Act 1919 → Introduction of Upper House and Lower House (bicameralism and direct elections for first time) → Increased Indians association → 3 out of 6 members of the Viceroy’s executive Council should be Indian → Communal representation to other castes → Limited franchise → UPSC → new office of the High Commissioner for India in London (with some of SOS powers) → Decentralisation of Budget → appointment of a statutory commission to report on the condition of India (inquiry report after 10 years)

Simon Commission (1927)

1. The British Government announced the appointment of a seven-member statutory commission 2 years before the schedule.
2. Chairman of the committee was Sir John Simon.
3. The statutory committee was set up to report on the condition of India under its new Constitution. However, all the members of the commission were British and hence, all the parties boycotted the commission.
4. The commission submitted its report in 1930

Recommendations of the Commission:

- Abolish diarchy
- Extend responsible government in the provinces
- establishment of a federation of British India and princely states
- continuation of communal electorate and so on

To consider the above proposals British Government convened three round table conferences of the representatives of the British Government, British India and Indian princely states.