

Government of India Acts and its adoption and impacts in the constitution and post independence

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Abstract

India got its independence from the British on 15th August 1947. Even before that India went through lot of constitutional amendments which were done by the British. The various Acts such as Regulating Act, Pitts India Act and etc., helped to frame the more or less the right constitution for India's Governance. A constituent assembly was formed for this purpose in 1946 and on 26th January 1950, the constitution came into being. Each province and state were made adapted to the constitution. The then Government of India act 1858, Government of India act 1919, Government of India acts 1935 had brought lots of constitutional amendments in the country. The Constitution of India made lots of important changes in the central and regional Government. These acts provided for the independence of India. These acts enlarged the legislature in the provinces. The introduction of the electoral principle laid the groundwork for the parliamentary system even though this was contrary to the intent of Morley. Ideals of liberty, equality and fraternity were adopted. This paper aims on explaining about the Government of India act 1919, Government of India acts 1935 and Government of India act 1950 and the various changes made in the upcoming acts and the comparative study on the above Acts are also made in this paper. The acts are compared and the further possible changes to be made are also mentioned in this paper. The treaties and charters responsible for the change in the constitution are given. The suggestion are mentioned below and the discussions are also recorded.

Keywords

Constitution of India , government of India act, Indian economy, independence, assembly.

Introduction

In the year of 1600 the British came to India through the East India Company for the trade purposes. But eventually in the upcoming years through the other charters and acts the British acquired the Indian territories. In the year of 1858 August, The Government of India Act was passed by the British Parliament to set an end to the East India Company rule which is famously called as Queen Victoria Proclamation. The control of British Government of India was transferred to the British crown. The British Governor General of India was given the title Viceroy of India which means the representative of the Monarch. The people of India were granted their rights by Queen Victoria under this act. The Government of India act 1919 which is known as Montague-Chelmsford reforms and this Act made an introduction to bicameral legislature at the centre. The act has made changes in the regional government also. This act sought to fulfil its promises by emphasising greater autonomy of provinces and by making changes to the constitution. Government of India Acts made in British Rule sought to establish by a somewhat novel process and that process consisting of somewhat autonomous British India provinces. The next significant Act passed by the British was Government of India act 1935. This was passed by the British parliament to regulate the constitutional development in India. The government of India 1935 introduced direct elections and expanded the franchise . This act brought certain changes which was not fulfilled in the previous act. Certain improvements were made in the act and the government of India act 1919 formulated underwent some changes in the act of 1935.

Each and every act had it's own defects and deficiencies and many other acts were brought in order to rectify the mistakes and defects of the previous act. The Government of India act 1858 was introduced to rectify the deficiencies in the regulating act and Pitts India act, the Government of India act 1919 was enacted to correct the defects in act of 1858. But in the following acts the Indian people were not given their due rights by the Queen and were denied their rights. Moreover since the Indians were denied their rights by the British, changes were introduced in the administrative system and a new act was enacted called as government of India act 1919. After the passing of government of India act 1858 governance of India was taken over from the East India company by the British crown. The introduction of civil Servant was brought during this period. But still the high posts were given only to the British but not the Indians. The act of 1919 had many shortcomings. It didn't fulfil the

demand for the responsible government. The system of Dyarchy in the provinces were an utter failure. The governor rule dominated and the ministers did not have enough powers to implement their ideas and policies. The ministers were not altogether responsible and were only individually appointed by the governor as their advisers. Hence many other reformatations were made in the acts and new acts were passed by the British Parliament. Even though many acts came to light Indian people were not given their freedom and were not allowed to enjoy their privileges. Even though the previous acts had defects in them the Government of India act 1935 was proved to be the landmark act in the Indian constitutional history as it provided new form of government for which was suitable for the modern world. It introduced the bicameral federal legislature which now comprises of two houses Lok sabha and Rajya sabha. This is the only act which made our Indian democracy the largest democracy in the world. This research brings forth the advantages and disadvantages of the various Government of India Acts. The acts are compared in between one and another and the changes are recorded. Certain amendments which are to be made and that can be changed are also given. This research paper aims on bringing in new amendments in the Indian constitution and improvements can also be made in the constitution. The reasons for the introduction of every acts are explained in detail. To analyse the Government of India acts and to know the step by step development of Indian constitution.

Methods and materials

The paper is a Doctrinal Research which is done by collecting datas from research articles, books, newspapers and journals, from other authors and websites based on the topic.

Hypothesis

Null hypothesis

Government of India Acts has created a significant impact on the constitution.

Alternate hypothesis

Government of India Acts does not have a significant impact on the constitution.

Review of literature

It's said that after 60 years of independence from the British Colonial rule and after the introduction of the Government of India act, our country India has shown a significant

improvement in the economic and political transformation. Politically conscious, increasingly participating, the country's masses has been an awakening force that is yet to find coherence and direction in the world's largest democracy ¹ [Stanley. A. Kochanek, \(2008\)](#)

Under the Government of India Act the constitution of independent India, the states were granted the power to enact the land reforms. Several states passed legislation in the early 1950s formally abolishing the landlord and other intermediaries between the government and the cultivators ² [\(A. Banerjee and L. Iyer, 2002\)](#)

The passage of 73rd and 74th amendments in the year 1994 is the landmark of evolution of local governments system in India. The constitution of India has assigned executive legislative domain over the local government in the each provinces ³ [\(Shubham Chaudhary, 2003\)](#).

The constitution of a country is it's past history and future aspirations. The reforms inaugurated was based upon the famous declaration of British policy towards India⁴ [\(M. Ramaswamy, \(1956\)\)](#).

Great constitutional interests attaches itself to the judicial arrangement operatives in their period. The charter established in Bengal the courts were also setup in Bombay and Madras. The Mayor court, the court of requests and the governor and the council as a court of appeal from the Mayor court ⁵ [\(Arthur Berriandale Keith, 2017 \)](#).

¹Stanley. A. Kochanek, (2008), India Government and politics in a developing nation, Thomas learning Publications. Seventh edition.

²A . Banerjee and L. Iyer, (2002), Massachusetts institute of technology, History, Institutions and economic performance.

³Shubham Chaudhary (2003), What difference does a constitutional amendment make ? The 1994 Panchayati Raj Act and the attempt to revitalize rural local government in India.

⁴M. Ramaswamy, (1956), Constitutional development in India, Stanford law review, vol 8 no 3 pp 326-387.

⁵Arthur Berriandale Keith, (2017), A constitutional history of India, Routledge library edition, 1st edition.

The 26th January 1950 marked a great event in the long and chequered history of India, a constitution is set of laws and rules setting up the machinery of the government of a state which define and determines the relations between the different institutions and areas of government ⁶ ([M. V. Pylee 2003](#)).

The classical distinctions under the Government of India act between horizontal and vertical political mobilisation proposed by Lloyd and Susanne Rudolph captured the essence of north south political differences. Affirmative action leads to the cooperation of a tiny lower caste and scheduled elite into existing vertical structure under the act ⁷([A. Varshney, 2000](#)).

The council of India act 1907 modified the constitution of Indian Council for legislative purposes. This act empowered the Secretary of State for India to raise the maximum number members of the council of fourteen⁸ ([Vibhuti Bhushan Mishra, 1987](#)).

During the first couple of decades after the Indian independence, the political discourse in India was guided by the legacy of the freedom movement. The Indian National movement while internalising the principles of rule of law went on to reject the moral authority⁹([V. Krishna Ananth, 2011](#)).

India's freedom struggle culminated in the transfer of power in 1947 ratified the change. A new era dawned and Jawaharlal Nehru captured the historic moment. ¹⁰([Bidyuth Chakraborty, 2008](#)). The act established a Board of commissioners usually known as the Board of Control. This bought the control of the company in the hands of the British parliament¹¹([Manik Lal Gupta, 1989](#)).

⁶M. V. Pylee, (2003), Constitutional Government in India, S.Chand and company ltd. first edition .

⁷A. Varshney, (2000), Is India becoming more democratic, The journal of Asian studies, vol 59 no 1, pp 3-25.

⁸Vibhuti Bhushan Mishra, (1987), Evolution of Constitutional history of India, Mithal publications, first edition.

⁹V. Krishna Ananth, (2011), India since independence, Dorling kindersley pvt. Ltd., first edition.

¹⁰Bidyut Chakraborty, (2008), Indian politics and society since independence, Routledge, first edition.

¹¹Manik Lal Gupta, (1989), Constitutional development of India, Atlantic publishers , first edition.

India's independence represented for its people the start of an epoch that was imbued with new vision. The Nations leaders set out to build a secular society and state undaunted by the partition of India¹²([Bipan Chandra,2006](#)).

India arrived at independence after a long struggle with a multiplicity of heritages and legacies. The simultaneous presence in the constitution of these two sets of principles and guidelines reflected some of the tensions¹³([Paul. R. Brass](#)).

Eminent social scientists and specialist clearly depicts a remarkable change clearly explains that there's a remarkable change in the various laws in the Indian subcontinent. The growing phenomenon of parliamentary democracy led to the inauguration of numerous economic measures in the both private and public sectors¹⁴ ([Brij Mohan Janhari, 2002](#)).

India's constitution has evolved into a major tool for social revolution. The makers of the constitution laid this as a framework for the development of the constitution¹⁵ ([V. Krishna Ananth, 2015](#)).

Public administration, governed by bureaucratic structures has failed to respond to the changing requirements¹⁶ ([Anil Monga, 2008](#)).

The Government of India act 1935 is a development of nearly six years of legislative, administrative and political work¹⁷([Dr. Andrew Muldoon, 2013](#)).

The partition led to a mass displacement of an estimated eighteen million people after the government of India act 1935 ¹⁸([Ornit Shani, 2018](#)).

¹²Bipan Chandra, Mridula Mukherjee and Aditya Mukherjee, (1999), India since independence, penguin books , second edition.

¹³Paul. R. Brass, (1994), The politics of India since independence, Cambridge university press, seconds edition.

¹⁴Brij Mohan Jauhari, (2002), India's development after independence, Gyan publication house, first edition.

¹⁵V. Krishna Ananth, (2015), The Indian Constitution and social revolution, SAGE Publication , first edition.

¹⁶Anil Monga, (2008), Government in India, JOAAG Journal, vol 3 no 2, pp 52-61.

¹⁷Dr. Andrew Muldoon, (2013), Empire, politics and the creation of the 1935 India act, MPG Books group, first edition.

¹⁸Ornit Shani, (2018), How India became democratic, Cambridge university press, first edition.

India became a free nation in 1947 through what is known as transfer of power¹⁹ ([Bidyut Chakraborty, 2008](#)).

The position of Indians was becoming increasingly clear after the enactment of Government of India act²⁰ ([Frank Cassidy and Robert. L. Bish, 1989](#)).

Government of India Act 1858

The government of India act 1858 was the first and foremost act introduced in the India by the British Parliament. The Great revolt of 1857 urged the British Parliament to pass this act to calm down the after effects of the revolt. This act was enacted to liquidate the East India Company and transfer the entire powers to the British crown. Lord Palmerston the then Prime Minister of the British crown introduced a bill for the transfer of the powers of the Government of India from the East India Company to the British crown referring to the grave and undue effects in the existing system of government of India. The company's territories in India rested with the Queen , the company ceasing to exercise it's power and control over it's territories. India was compelled to be controlled under the Queen's name. The Queen Principle of Secretary of State received the duties and powers of the company's court of directors. In this Act a council of fifteen members were appointed in order to assist the Secretary of State of India . The council become the main advisory body of the Indian affairs. The Secretary of State became the communication channel between the Britain and India. It ended the system of dual government by abolishing the Board of Control and Court of Directors. The act of 1858 was confined to improve the administrative machinery by which the Indian Government could be supervised and controlled by the British crown. It did not bring any alterations in the substantial way of government that prevailed in India. After the act the interest of the people of India were subordinated to the British.

¹⁹ Bidyut Chakraborty, (2008), India politics and society since independence, Routledge publication, first edition.

²⁰ Frank Cassidy and Robert. L. Bish, (1989), Indian Government: It's meaning in practice. Oolichan books, first edition.

Merits and Demerits of Government of India Act 1858

After the Government of India act 1858 was enacted India's rule came under British crown directly. The whole administration was to be run by the Queen through the Secretary of State for India assisted by the council of India. The council of India had 15 members, eight appointed by the crown and seven elected by the Court of Directors. This act increased the number of members elected in the Imperial legislative council and the Provincial Legislative Council. But the overall majority of non elected members remained intact. Even elected members were to be elected by the local bodies . Powers of legislatures were extended to enable it to pass resolution and ask questions and supplementaries , but were not able to vote upon the budget as a whole. One Indian was to be appointed to the viceroy executive council. Separate electorate was introduced. Muslims were allocated eight seats, British Capitalists six seats, landlords two seats and general electorate were allocated thirteen seats out of which twenty seven non official seats of total sixty eight seats in imperial legislative council. Muslims were also provided their representation in excess to their strength. The number of elected member in the Imperial Legislative Council and provincial legislative council was increased. The electoral system they was introduced contained two divisions of electorate, they are general electorate and special electorate. No universal franchise was introduced. Only a class of citizens was qualified for voting which was almost a minority to the total population of each electorate. Communal representation was introduced here to divide the Hindu-Muslim to create a difference of opinion and make them weaker. Hence apart from the advantages the Government of India act 1858 had some disadvantages also.

Government of India Act 1919

Government of India Act 1919 was passed by the British Parliament to further expand the participation of Indians in the Government of India. This act was passed by the Edwin Montagu the then Secretary of State of India and Lord Chelmsford the then viceroy and Governor General of India. This act is also called as Montague-Chelmsford Reforms or simply Mont-Ford Reform. The main feature of this act was "end of benevolent despotism" and introduction of responsible government in India. This act covered a period of 10 years from 1919-1929. The Government of India act had separate preamble. In this preamble India has to remain as an integral part of the British Empire. There was a gradual decentralisation of authority with loosening the supreme hold of the central government. Thus the preamble of this act suggested for a decentralised unitary form of government. The time and manner

towards the objectives of responsible government will be decided by the British Parliament. The Legislative Assembly and the council of state enjoyed similar and concurrent powers except in matters of finance. The act separated for the first time the provincial budgets from the central budget and authorised the provincial legislature to enact their budgets. But the financial powers of the central legislature were limited. No substantial changes were made in the office of Secretary of State for India . However the salary of the Secretary of State was made a charged expenditure on British revenue this time. The Dyarchy was for the provincial government. The provincial subjects were divided into two categories ie. reserved and transferred . The reserved subjects were kept with the governor and transferred subjects were kept with governor acting with the Indian ministers.

Merits and demerits of Government of India Act 1919

The Government of India act 1919 had three major defects, absence of responsible government at the centre, the separate electorate were formed for different communities. Although Montagu Chelmsford reforms had declared that a separate electorate was a serious hindrance to the development of the self governing principles, yet separate electorate came to be significant features of the Indian political life. The introduction of the Dyarchy system in the provinces was too complex to be worked out smoothly. Despite of several limitations of the Government of India act 1919 had some merits also. The Government of India act 1919 ended the policy of benevolent despotism and thus started the genesis of the responsible government in India. It was for the first time that elections to the legislature were known to the people and this created political consciousness among the masses. In this act the Indians came in direct contact with administration for the first time . This was also the first time that a number of Indian women got the right to franchise for the first time . The subjects of national importance such as foreign affairs , defence, political relations, posts and telegraph, public departments, communication etc. are included in the central list while others like public health, native self government, education, land revenue, famine, law and order were enclosed within the provincial list. High property qualification, the communal and sophistication voters and special weight to certain communities were fastened for the provincial franchise. Since there aren't any changes within the communal voters system this technique hurt the emotions of Gandhi and therefore couldn't attract the Indians towards the amendments.

Government of India Act 1935

Government of India act 1935 was passed by the British Parliament . This was the longest act passed by the British Parliament so far and was later divided into two parts, Government of India Act 1935 and Government of Burma act 1935. The Government of India act was derived from four main key sources they are Simon Commission report, discussions at the third round table conference, the white paper of 1933 and the reports of the joint select committees. This act ended the system of Dyarchy introduced by Government of India Act 1919 and established federation of India system. The provinces were allowed to act as autonomous units of administration in their defined sphere. Moreover the act provided responsible Government at the provinces, that is the governor was required to act with the advice of the ministers responsible for the provincial legislature. This came into effect in 1937 and was discontinued in 1939. This act introduced bicameralism in six out of eleven provinces. The court was given exclusive original jurisdiction to determine disputes between the centre and constituent units. This provision was created for filing of appeals from high courts to the court and from court to council. It abolished the council of India, established by government of India act 1858. The Secretary of State for India was given a team of advisors in it's place. within the act of 1935 the federal bank and also the court were established in 1935 and 1937 severally. the primary elections below the act were additionally held in 1937.

Merits and demerits of Government of India Act 1935

The Government of India act 1935 contained thirty two sections fourteen parts and ten schedules and consisted of two major parts. The act of 1935 proposed to set up all India Federation comprising of the British Indian provinces and princely states. A very significant provision was the safeguard and protective measures for the minorities . This act extended the supremacy of British Parliament and increased the size of legislature, enlarged the franchise and separated Burma from India. But the act was still half hearted and there was remote control from London. The princely states were unwilling to join the federation as they were already assured a privileged position. The Indian princes could make nominations to the assembly while those from the provinces has to be elected. Indirect elections to the federal assembly went against the spirit of democracy. Control of the Secretary of the state over the Indian Civil Service and the India police was not liked . Indians did not control the defence part of administration though they contributed men and materials for the war efforts. The British still dominated the federal legislature and the federal executive like a colossus, and provincial Autonomy seemed a farce. There was a vast pause between the provision of the act

and the dominion status was being dangled all the time. The Government of India act was called as anti-India act and the found it unacceptable. However the Government of India act 1935 had introduced several features which form the nucleus of our Constitution.

Impact Of The Government of India Act In The Development Of The Constitution

Among all the Government of India act, the Act passed in the year 1935 proved to be a basic structure for the formation of our Indian constitution. The Government of India Act introduced a national bank called as Reserve Bank of India and was commenced on April 1st as a private shareholders bank with a paid up capital of rupees five crores. This bank was introduced to regulate the issue of bank notes with a view of securing monetary stability in India and to respond to economic troubles after world war . The UPSC exams also started teaching to play an important role after the enactment of Government of India Act. The origin of UPSC exam in India is found after the passing of Government of India Act 1919. In the beginning it was called as public service Commission since the British also had a part in that exam. The public service Commission function were not written down in the Government of India Act 1919 but were regulated by the public service Commission rules. Further the Government of India Act 1935 empowered the Public Service Commission for the federation. Hence the public service Commission came to be known an Federal Public Service Commission after the Government of India Act 1935. But after the inauguration of the constitution of India on January 26 1950 the federal public service Commission came to be known as Union Public Service Commission and the chairman and the members of the Federal Public Service Commission became the chairman and members of Union Public Service Commission under the virtue of clause (1) of article 378 of the constitution.

Changes in the Constitution Post Independence

Certain amendments made in the constitution after the independence proved to be the most important and significant changes made in the Indian constitution so far . Indian administration was changed and underwent many constitutional reforms in India. Some of the major amendments are , Abolition of states according to classes and the introduction of Union Territories and reorganisation of states by language (1956) is one of the significant reforms taken by our Indian Government in order to organise the state and territories according to the language spoken by the people. It also abolished the classification of the state according to the progress and per capita income of the people. The mini-constitution (42nd amendment) inserted Socialism and Secularism in the preamble, a provision on

fundamental (1976), in this amendment the secularism and socialism were inserted to restore the faith of the nation that the minorities would be safe not be exploited by the rich. The main aim of this amendment is to promote social as well as economic quality in the country. Right to Property deleted from the list of fundamental rights (1978), the fundamental right to property was removed in order to permit the reorganisation of land and to facilitate land acquisition for the developmental projects. This amendment was carried out since it was not enough to pay people whatever they demanded in their land. Lawmakers may be disqualified on the grounds of defection (Law of Defection) (1985), even though this amendment was quite controversial under this amendment a member of parliament or state legislature was considered to have defected they may not vote on issue on violence to the party's decision. Independent members would be disqualified if they join any political party. Nominated member who were not members of a party could choose to join a party within six months.

Voting age reduced from 21 to 18 years (1989) , this amendment provided the youth an awareness that lowering of voting age would provide an opportunity to the unrepresented youth and motivate them to become a part of political process eventually. The introduction of Municipalities and Nagarpalikas (1993), this amendment was brought in to introduce effective authorities to execute numerous plans and programs felt by the Government. Free and compulsory education to children between 6 to 14 years (2002), this initiative was taken to provide elementary education to all. This act allowed the government to pass laws relating to reservations to socially, economically backward classes, scheduled castes and scheduled tribes in public and private higher educational institutions (2014), since the scheduled castes and scheduled tribes are the most neglected and exploited people in India this amendment was made to provide relief to such economically backward people. Introduction of the Goods and Services Tax (GST), to present the idea of One Nation, One Tax (2016), the recent and important amendment brought by the government of India is the gst where both the central and state government taxes are same and equal for all the commodities . After the independence the states were joined and separate government were formed in our country.

Findings

The term Government of India Acts refers to one of the consequent acts passed by the British Parliament to regulate the government of British India. The act extended the powers of the viceroys in India and abolished the company's rules. Following the revolt of 1857 the Government of India Act was enacted in order to bring India under the direct British crown

rule. The Government of India Act 1935 was never fully implemented but still it served as a part of constitutional basis of India. The portfolio system was brought in and separate electorate was formed for the Muslims. To sought a federation of India and introduced a provincial autonomy in India. The Government of India act plays a major role in developing the constitution of India.

Discussions

The presidency government had a strict central control and enjoyed the autonomy. There have been variety of things that the new Constitution of India had in common with the government of India Act of 1935. Firstly, if we look at the legislative set up provided by the new Constitution we'll notice that it resembles very closely the model followed by British people. The Government of India Act of 1935 provided for a bicameral Federal legislative assembly and currently also we've a bicameral Parliament. And therefore the provincial legislatures can be either bicameral or unicameral we've identical system in our states. Within the matter of governmental management in numerous aspects of administration the govt of India Act of 1935 had provided for three legislators that started the varied subjects wherever the Federal and therefore the Provincial Legislatures would have management. And within the case of conflict between the laws of the Federal legislative assembly and therefore the Provincial legislative assembly state the laws of the Federal Legislature would unremarkably prevail. And currently we've identical system wherever we've the three list and referred to as the Union, State and therefore the coincidental Lists which offer the areas of administration of the several legislatures. And just in case of conflict of laws between the two legislatures the law created by the Union Government prevails. A Bill so as to become an Act beneath the Government of India Act of 1935 needed the assent of the Governor General or the Provincial Governors and the Governments were completely subordinated. For example GST was a bill which was a draft or a proposal after being passed by both the houses of the parliament and after being approved by the President it has become an act.

Conclusion

The Government of India Act helped India to develop relationships with the neighbouring countries which in turn helped the country to develop trade relations with them. The Constitution of Republic of India has created a sharp departure from the government of India Act in certain things. however if we tend to scrutinise closely we discover that the legislative and body set- up are left mostly untouched. What we've got in result is a

Constitution that follows the British model of administration to fulfil and attain the goal of prosperity for the state. so we will say that though the Constitution is meant for the welfare of the indian nation it's not very a counterpoint to the government of India Act of 1935. And currently a Bill so as to become an Act needs the assent of the President or the Governor, as the case may be. And within the case of the failure of the constitutional machinery in any a part of the country the Governor General was authorised to declare emergency and take over the administration. And in such cases the provincial legislative machinery would be outdated. And even currently, just in case of a failure of constitutional machinery in any state or within the country the President is to issue a proclamation declaring emergency. And the legislative machinery of the states is outdated. And even the executive set- up and divisions are left well an equivalent as was the case earlier. However the Government of India act set an end to the British imperialism. Hence the Government of India act has created a good impact on the constitution.

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