

The Constitutional Development in Subcontinent:

EIC & British Govt. Enforced multiples Acts & Reforms for Administration of the Subcontinent:::::::::

- 1. 1773 Regulating Act of India: 1773 - 1858**
- 2. 1784 Pitts Act**
- 3. 1813 Act**
- 4. 1833 Act**
- 5. 1853 Act**
- 6. 1858 Act**
- 7. Indian Councils Act 1861**
- 8. Indian Councils Act 1892**
- 9. Minto Morley Reforms 1909**
- 10. Montague Chelmsford Reforms 1919**
- 11. Government Act of India 1935**
- 12. Indian Independence Act 1947**

Historical Background:

After the discovery of the Sea Route to the India by Portuguese Sailor, Vasco de Gama (1460-1525AD) the entry of Western Nations in India began on May 20, 1498. During the rule of Emperor Akbar, there was entire control of Portuguese on the coastal areas followed by the Dutch. Later on; French & British were step in India. In 15th Century, there was great demand of Indian products in the global markets and especially the Europeans consider India as a golden sparrow.

The East India Company was founded by 218 Merchants of the England and established a “Court of Directors” to control and organization of the Company. The Directors submitted a request to the Queen Elizabeth- I (1533-1603AD), they intended to initiate trade with India. On 1600 AD, the Queen Elizabeth awarded the Company a 15 years Royal Trade lease and according to the notification no other company could trade with India. On 1608, the Royal Envoy of the Britain, Captain William Hawkins (1495-1554AD) came to the Court of Mughal Emperor, Nooruddin

Jahangir (1559-1627), and delivered the letter of King James VI (1566-1625AD). Jahangir accorded permission after acknowledging trade links on Empires' level and allowed the British traders to start their trade activities conferring them some privileges. The Company established their first trade office in Province of Gujarat, District Surat in 1612. The EIC also established new Ports and Towns along with their Commercial area in Madras, Ajmer, Bengal, Ahmadabad, Agra, Kolkata and Mumbai and strengthened their footings. Now the Company started stabilizing itself as a Para-Military power along with the trade. The history of the East India Company is spanned over 250 years. We can divide it into three phases. First phase is from inception to 1757, during which the company along with the trade also fought battles with other European Nations and achieved victory. In this way they continued to maintained supremacy in India. The second phase is the period of important wars, and after that the British were transformed into a political power in India. The third phase is two decades before Freedom War 1857.

On 1773; Regulating Act was approved in the Parliament of England, the objective of the Act to achieve Administrative and Political control on the East India Company, now the Company was directly accountable to the British Crown. The Company introduced a new Political and Constituent System for India; included Governor General, Board of Control, British Judicial System and Political Institutions. British Crown appointed Warren Hastings (1732-1818AD), as the first Governor General of Bengal (1773-85AD) Lt. John Clavering (1722-1777AD), George. H. Monson (1755-1823AD), Phillip Francis (1740-1818AD), and Richard Burwell (1741-1804AD), were nominated as the assistants to the Governor General Council. Governor General would solve the local disputes and affairs with consultation and for further approval would refer to British Crown.

The Act possesses the status of a milestone in the history of Sub-Continent. The written constituent system was introduced instead of individual rule, dictatorship and emperorship. The collective style of government flourished and replaced individual style. The new political system and existence was acknowledged through this Act, some amendments were made to remove the flaws existing in this Act, which are known as Pitts India Act 1784. Keeping in view, the necessities of the circumstances, Reforms were done on 1786, 1793, 1813, 1833 and 1853 Reforms and the trade rights of the company were revised for four times in two decade. According to the Act of 1833, the Governor General was authorized to make laws in India and

these laws would be enforced. The laws would be promulgated by the Courts, up till 1853; sufficient development had been experienced in the political and constituent system of India. A Constituent Council had been established under the Sir Charles (1782-1853AD). The political experts consider it was the first solid move of British political style. Although, there was no Hindu or Muslim member in the Council, but according to Sir Syed Ahmed Khan (1817-1898AD), the Indian public was prohibited to use their right of protest against any unwise measures of the government. The Freedom War struck a profound blow to the Indian public and the Indians would start feeling unsafe and insecure. The gulf between the British and Indians was extending. However, the Freedom War proved the fact that the public had politically awakened and if the locals were not included in the functioning of state then more threats could be faced by the British in future. The tragedy of 1857 not only brought the Mughal Empire to a disastrous end but also finished. Queen Victoria (1819-1901AD) holds a Royal Court (Durbar) in Allahabad on November 1st, 1858 and declared about the welfare plan. “We ensure to the Indian’s that we will abide by all those accords which the EIC has signed in the Sub-Continent. Till now the East India Company was ruling on the behalf of our trust. Now all the captured territories of India have become under directly our control.” The Queen appealed to public to remain loyal with British Crown. She said the privileges and a commitment to abide by the rights of public. Later, the new British political system, constituent infrastructure and administration were introduced in India. The Indian Council Act 1861 was enforced and for the first time devised a plan for the power share formula. Under this Act, the head of government was to be called Governor General, which was a constitutional designation. The Indian citizens were granted representation in the Executive Council of the Governor General first time ever. The Executive Council was raised from 6 to 12 Members. The unofficial Members of Constituent Council and Administrative Council had no right to originate legislation and were very limited. There was no freedom even in other affairs; however, it was a fully-fledged attempt towards the political and constituent development. The administrative framework designed for the Indian government included the formation of Governor General or Viceroy’s Executive Council and the institutionalization of the Constituent Assembly. The proper Police System and Municipality System were commenced in India. In England; a special Ministry for the Indian Affairs was created, who would be Members of Parliament and answerable to Parliament. The Act was actually the new edition of the previous Indian Councils Act of 1861. Governor General of India, considered that the previous India

Councils Act 1861, could not deliver the goods to the Indians and the public was not satisfied. Hence, he enforced the Act with some amendments. The big feature of this Act was that through this Act some powers were devolved from province to Local Bodies, which was the starting point of the politics and in India the politics began to flourish. After this Act the political parties began to rise in India. Due to this Act, the politics of India produced acceleration and the political benefits and fruits began to be acknowledged by the Indians. In Executive Council, the Hindus began to seize all political posts, but due to some weak points of the prevailing Act, the Muslims could not be nominated as member of the Executive Councils or other Committees from 1892 to 1909. Due to this discrimination the political unrest among Muslims was raised and the Muslim Members of Indian National Congress were feeling lack of protection in politics. The Secretary of States for Indian Affairs, John Marley (1838-1923AD) said "the Government intends to make constitutional changes in India and in this regard the political parties will be contacted." The Aligarh fellows received the news they decided to meet Lord Minto (1845-1914AD) at Simla on October 1, 1906. The Delegation was led by Sir Sultan Muhammad Aga Khan III (1838-1923AD) and presented the demands of Muslims before the Governor General.

By the assurance of the Governor General, the Muslims started to participate in the administrative and political activities of India. King Edward VII (1841-1910AD) said on the eve of golden jubilee, "It is the heartiest desire of the British Government to deal with the Indian people in accordance with democratic values, so that the politics may flourish in India according to the democratic objectives. The Indian government received a letter from the Minister for Indian Affairs, in which the demands of the Delegation of Simla were supported. Minto-Marley Reforms 1909 was also the constituent development of the previous reforms. It was a Reformatory Package, which was based on the fact that the population of India comprised of multi racial and religious groups. There would be separate political constituencies for every group and this principle was acceptable, and for the first time the Muslims achieved seats in the Central Council. In 1909, The Muslims were recognized as a separate entity. The legislation received further priority through these Reforms and the number of the members of Governor General's Council was raised up to 60 members. Separate voters list and Electorates were established for the Hindus and the Muslims. Due to the mutual names of Minister for Indian Affairs John Marley and Governor General Lord Minto, the Reforms were named as Minto-Marley Reforms 1909. While,

earlier the laws were introduced for India as Indian Councils Acts. The Congress expressed great reaction over awarding of political rights to the Muslims. As a matter of fact, in these reforms it was decided to review the reforms after ten years on 1919. The Muslims surely reaped benefit from these reforms. In 1916, Lucknow Pact was agreed between Congress and Muslim League, and according to these joint proposals, for the future legislation would be recommended so that these proposals could be included in the future reforms. In November 1917, the British Minister for Indian affairs, Lord Montague paid a five-day visit to India and reviewed the prevailing political situation. He also convened meetings with Muhammad Ali Jinnah (1876-1948AD), Jawaharlal Nehru (1889-1964AD), M. K. Gandhi (1869-1948AD), Sir Muhammad Shafi(1869-1932AD), Madan Mohan Malvia (1861-1941AD), Bal Gangadhar Tilk (1856-1920AD), and Mrs. Anny Besnett (1847-1933AD), presented the Constituent Amendment Bill in the Indian Parliament on 1919, which is known as Montague-Chelmsford Reforms as previously with the names of the Governor General and Minister for Indian Affairs. It was fourth constitutional package for India. In these Reforms, more privileges and political system was given extension. This Act was also a milestone in the constitutional history of India. The Reforms of 1919 could not achieve much success but to a great extent the legislative and constituent government came into being. The Prime Minister of England, McDonald Wolsey (1866-1937AD), appointed a commission led by Sir John Simon (1873-1945AD), on November 8, 1927; for the solution of constitutional matters of India, which is well known as Simon Commission. There were seven more members for its assistance and the interesting to note that there was no Indian member in Commission which was destined to sole the issues faced by the Indians, hence, the opposition started to call it a “White Commission”. Simon Commission came to India on February 3, 1928, but he faced extreme opposition and after meeting with Indian politicians, he returns with disappointment. No solution of the political crisis was found, and then British Prime Minister, requested to Mr. Ali Jinnah organized a Round Table Conference in London to solve the constitutional crisis. Later, three connective sessions of Round Table Conference, the British government issued a White Paper in 1933. A Committee was formed for the expected Constitution for India, which was named as “Select Commission”. The head of the Committee was Lord Linlithgow (1836-1943AD), and it comprised of 20 Hindu and 2 Muslim Members. The Commission took Nehru Report, Simon Report, Jinnah Fourteen Points and the proposals of Round Table Conference into consideration. The Commission organized 59

meetings from April 1933 to November 1934. Eventually, Minister for Indian Affairs, Sir Samuel Hoare (1880-1959), presented the Bill on February 5, 1935 in the House of Commons in England. The Bill was passed after 43 days complete and comprehensive discussion, further more in House of Lords, after 13 days arguments, debates and discussions the Bill was finally approved. On August 2, 1935, with formal signature of King of England, George V (George Frederick Ernest Albert 1865-1936), on August 12, 1935, the Government Act of India was promulgated and implemented in subcontinent from 1935 to 1947. This Act was partially implemented in 1935, but it was totally enforced after the Provincial Elections of 1937. It was another landmark in the Indian political history. It was a huge document comprising of 321 Sections, 10 Schedules and 2 Chapters; one part of the document was about Federation, while, second part concerned with the Provincial matters. After Promulgation of the Act, both the largest political parties termed it as inapplicable. Indian Congress declared this Act as unfavorable and Nehru compared this Act as like a motor car which had no engine but have a lot of brakes. Mr. Jinnah also declared this Act as basically wrong, dispersed and in applicable. The Act brought a number of constituent changes as compared to the previous Acts of the British Government. Under this Act, the reflection of democratic freedom was evident in the Election of Provincial Assembly and Legislation, but the way the Indian political parties and public were demanding the democracy that could not be achieved. All political parties of India termed it as not valuable. Although, the Constitution was drafted with strenuous efforts. This was a magnificent advancement in last 80 years of the British Raj. The Independence Act remained enforced even after 1947. Government Act of India 1935 was implemented in India with some changes till January 25, 1950. While in Pakistan, Government Act of India 1935, was in force with some amendments till March 23, 1956 Constitution of Pakistan. On February 20, 1947, Prime Minister of the England, Lord Clement Attlee announced that the British would leave India no more than June 1948. So a new Viceroy, Lord Mountbatten was sent to work out on the plan for the Transfer of Power. Attlee had deliberately set a short time span for arrangements to be made. He feared that if more time were given, there would only be more disagreement. On July 04, this Bill was table in Parliament of the England. **Finally on July 18; The Indian Independence Act-1947** was passed. From 15 August British India would be partitioned into two independent states - India and Pakistan.

