

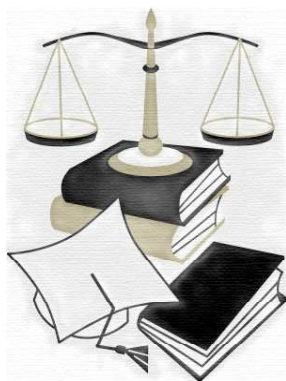
UPSC

CIVIL SERVICES MAIN EXAM REVISED STUDY MATERIALS

GENERAL STUDIES

PAPER - II

(GOVERNANCE, CONSTITUTION, POLITY,
SOCIAL JUSTICE AND INTERNATIONAL
RELATIONS)



सत्यमेव जयते

Published By

Develop India Group



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GENERAL STUDIES - II

(Governance, Constitution, Polity, Social Justice and International relations)

SYLLABUS GENERAL STUDIES- II

Governance, Constitution, Polity, Social Justice and International relations.

Indian Constitution- historical underpinnings, evolution, features, amendments, significant provisions and basic structure.

Functions and responsibilities of the Union and the States, issues and challenges pertaining to the federal structure, devolution of powers and finances up to local levels and challenges therein.

Separation of powers between various organs dispute redressal mechanisms and institutions.

Comparison of the Indian constitutional scheme with that of other countries

Parliament and State Legislatures - structure, functioning, conduct of business, powers & privileges and issues arising out of these.

Structure, organization and functioning of the Executive and the Judiciary Ministries and Departments of the Government; pressure groups and formal/informal associations and their role in the Polity.

Salient features of the Representation of People's Act.

Appointment to various Constitutional posts, powers, functions and responsibilities of various Constitutional Bodies.

Statutory, regulatory and various quasi-judicial bodies

Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

Development processes and the development industry- the role of NGOs, SHGs, various groups and associations, donors, charities, institutional and other stakeholders

Welfare schemes for vulnerable sections of the population by the Centre and States and the performance of these schemes; mechanisms, laws, institutions and Bodies constituted for the protection and betterment of these vulnerable sections.

Issues relating to development and management of Social Sector/Services relating to Health, Education, Human Resources.

Issues relating to poverty and hunger.

Important aspects of governance, transparency and accountability, e-governance- applications, models, successes, limitations, and potential; citizens charters, transparency & accountability and institutional and other measures.

Role of civil services in a democracy.

India and its neighborhood- relations.

Bilateral, regional and global groupings and agreements involving India and/or affecting India's interests

Effect of policies and politics of developed and developing countries on India's interests, Indian diaspora.

Important International institutions, agencies and fora- their structure, mandate.



CONSTITUTION, GOVERNANCE & POLITY

Indian Constitution

Historical underpinnings, evolution, features, amendments, significant provisions and basic structure

Indian constitutional development

The Indian constitutional development start from the year of 1858. It was after the first war of independence (Sepoy Mutiny) in 1857, the transfer of power from the East India Company to the British crown was affected by the Government of India Act, 1858. It was subsequently followed by the Indian Councils Act, 1861 and the Indian Councils Act, 1892.

Though the British Govt. repeatedly asserted its desire of providing better and more participatory government to the Indians, all the acts cited above, in effect, strengthened the hands of the British government. The much lauded Indian Councils Act, of 1909, which, in fact, initiated the process of decentralisation had a positive vice in the form of introduction of communal representation for the first time.

The seeds of separation between the Hindus and the Muslims were sown for the first time aiming to weaken the nationalist agitation. During the First World War, which started in 1914, the British government, in order to elicit Indian support, declared on 20th August 1917 its desire to associate the Indians in a significant manner in the administration after the end of the war. However, the Government of India Act, 1919, which was subsequently enacted, was a big disappointment for the Indians. Apart from retaining the unitary and centralised features of administration, it sought to perpetuate the communal representation system introduced in 1909.

Subsequent to the enactment of the 1919 Act, a seven-man Statutory Commission was appointed in 1927 under the chairmanship of Sir John Simon to report on the working of the 1919 Act. The Indian National Congress boycotted the Commission as all the

members were English men. The report of the Commission was placed before a Round Table Conference which was boycotted by the Congress.

The findings of the conference was again examined by a Joint Select Committee of the British Parliament and on the recommendations of the Select Committee, the Government of India Act, 1935 was enacted. While this Act, promised to set up a federal government in India, an attempt was simultaneously made to deepen the communal cleavages in the country further by providing separate representation not only to the Muslims, but also to the Sikhs, the European, Indian, Christians and Anglo-Indians.

The Congress won overwhelmingly in the 1937 elections held as per the provisions of the 1935 Act. However, with the outbreak of Second World War in 1939, the Indian National Congress governments resigned demanding right of self determination by framing their own Constitution through a Constituent Assembly. Such a demand was earlier made by the Congress for the first time in 1935 and repeatedly made several times between 1935 and 1939. It was never paid any attention by the British Government till 1942, when it was faced with the danger of defeat at the hands of Germany.

The Cripps Mission which came to India in 1942 though accepted the demands of an elected Constituent Assembly to frame a constitution, it indirectly accepted the plans of the Muslim League for a separate state i.e. Pakistan.

The rejection of Cripps proposal was followed by the dynamic Quit India Movement in August 1942. It was only after the end of the war, the British Government despatched the Cabinet Mission to India in March 1946. As per its recommendations, elections were held to the Constituent Assembly.

The Muslim League members, though elected, boycotted the proceedings of the house which started on 1 Dec. 1946. The grouping clause of the cabinet recommendation indirectly accepted the Muslim League's

demand. Ultimately on 20th February, 1947 the British Government announced its decision to transfer power to India by June 1948, keeping the option open to hand over power to a truncated India.

The Mountbatten Plan envisaged by Lord Mountbatten clearly decided in favour of partitioning India. With surprising speed, the Indian Independence Act 1947 was passed by the British Parliament on 4th July and received royal assent in 18th July 1947. Accordingly, India and Pakistan were to emerge as two independent Dominions and the Constituent Assembly of each Dominion was to have unlimited powers to frame and adopt any constitution it liked. India and Pakistan became two completely sovereign states on the 'appointed day', that is 15 August 1947.

LANDMARKS IN THE CONSTITUTIONAL DEVELOPMENT OF INDIA

The Constitution of India, as opted by the Constituent Assembly in 1949, was not something absolutely new. It was, to a great extent, influenced by the Government of India Act of 1935 that was passed by the British Parliament. In order to understand and appreciate the Constitution, it is necessary to glance at the constitutional development during the British rule in India. Some of the landmarks in the constitutional development are given in the following passages.

The foundation of British authority in India was laid in down through the establishment of East India Company in England under a Charter of the British Queen Elizabeth. Under the Charter the Company was given an exclusive right of trading with India. In the beginning the Company was purely a trading organization, but later on due to political circumstances, it acquired territorial power.

Regulating Act of 1773

With the expansion of political power of the Company, it was felt in England that the affairs of the Company needed some regulation. As a result, the Regulating Act of 1773 came into being. Some of the salient features of the Act were as follows – (i) it set up a government in Calcutta Presidency consisting of a Governor-General and a Council of four members who exercised their authority jointly, (ii) the governments of the Presidencies of Bombay and Madras were subordinated to the government in Calcutta and (iii) it empowered the British Crown to establish a Supreme

Court in Bengal with jurisdiction over Bengal, Bihar and Orissa.

The Act subjected the legislative authority of the Governor-General and Council to certain limitations:

(i) the rules and regulations made by them were not to be repugnant to the laws of

England, (ii) they required registration by the Supreme Court which was given the power to veto them, (iii) there could be an appeal against them to the British Government and (iv) the Governor-General and the Council were under the duty to forward all such rules and regulations to England and the King-in-Council was competent to disapprove them at any time within two years.

The Charter Act of 1833

To make the legislative functions of the government distinct, the British Government enacted the Charter Act of 1833. It made substantial changes in the constitutional set up of India. The sole legislative power in India was vested in the Governor-General-in-Council. The Council was to consist of four members, of whom one was to be a Law Member, who could attend the Council meetings, as a matter of right, only when it was to perform legislative functions. The Council's functions were, thus, divided into two categories.

When it performed executive functions, it consisted of the Governor-General and three members only. But, when it performed legislative functions, it consisted of the Governor-General and the four members. In this way, the Act laid the foundation of the future Central Legislature, also called Imperial Legislative Council.

The Charter Act of 1853

In order to strengthen the legislative machinery the Charter Act of 1853 was enacted. The Act further extended the machinery of legislation. Under the new Act, the Governor-General's Council, when acting in its legislative capacity, was enlarged by the addition of six new members. Among these six members, one was to be an official representative from each of the four Provinces viz., Madras, Bombay, Bengal and North Western Provinces, and the Chief Justice and a puisne judge of the Supreme Court. Besides, the Commander-in-Chief was also given an extraordinary membership. Thus, the strength of the Legislative Council became

twelve.

The Act of 1858

The First War of Independence of 1857 brought the era of the East India Company to an end. In 1858 the British Crown took over the rights of the Company's Government in India in its own hands. The Act brought substantial changes in the constitutional set-up. Some of the important changes were: (i) it abolished the Board of Directors and the Board of Control and vested their powers in one of Her Majesty's Secretary (a Minister in the British Cabinet), (ii) he was designated as the Secretary of State for India and was empowered to superintend, direct and control all the governmental affairs in India, (iii) the Secretary of State was to be assisted by a Council of India, (iv) the Governor-General and Governors of the Presidencies were to be appointed by the Crown and the members of their Councils by the Secretary of State-in-Council, (v) Lieutenant Governors were to be appointed by the Governor-General, subject to the approval of Her Majesty and appointments to the covenanted civil service were to be made through open competition with the assistance of the Civil Service Commission.

Indian Councils Act of 1861

In 1861 the British Government decided to expand the legislative Councils. This was done through the Indian Councils Act of 1861. The main provisions of the Act were as follows –

(i) the Governor-General's Council was expanded for legislative purposes by adding 6-12 new members, to be nominated for two years, (ii) prior sanction of the Governor-General was essential for introducing some measures, (iii) every Act passed by the Legislature in India was subject to approval of Her Majesty acting through the Secretary of State-in-Council, (iv) the Governor-General was authorised to exercise a veto and issue ordinances in an emergency and (v) the strength of the Governor-General's Council for executive purposes was raised to five by addition of one more member.

Indian Councils Act of 1892

In 1892 another Act was passed to further expand and strengthen the legislative councils. The main features of the Act were as follows – (i) the strength of the central and provincial

legislative councils was expanded by adding 8–20 new members, (ii) two fifth of these new additional members were to be non-officials, (iii) the Governor-General-in-Council was authorised to make rules subject to the sanction of the Secretary of State-in Council, for discussion of annual financial statements and for asking questions.

Indian Councils Act of 1909

During the beginning of the twentieth century, the British Government was confronted with three types of pressures. While on the one hand the moderates were appealing for more reforms and the extremists were agitating for getting Swarajya, the revolutionaries, on the other hand, were resorting to terrorist activities to achieve their goal, i.e. end of the alien rule. In order to mollify the discontent, to some extent, the government enacted the Indian Councils Act of 1909.

The salient features of the Act were as follows :

- (a) The Act provided for the expansion of the Legislative Councils at both the levels, Central as well as Provincial.
- (b) It maintained the majority of official members in the Central Legislative Council. There were four categories of members i.e. ex-officio members, nominated officials, nominated non-officials and elected members.
- (c) It provided for non-official majority in the Provincial Legislatures. But then, the combined strength of official and nominated non-official members out-numbered the elected members.
- (d) The Act enlarged the functions of the Legislative Councils. This Act (i) empowered the members to discuss the budget and move resolutions before it was finally approved, (ii) they were allowed to ask supplementary questions, to move resolutions on matters relating to loans to local bodies, additional grants and new taxes and (iii) it also extended to the members the right to discuss matters of public interest, adopt resolutions or demand a division on them, but the resolutions adopted by the House were not binding on the government.
- (e) One of the most important and unfortunate feature of this Act was the introduction of separate and discriminatory electorate. The electorate for returning the representatives to the councils was divided on the basis of class, community and interests. For the provincial councils the electorate provided for three categories, viz., general, special and class (such as land owners and chambers of commerce). For the Central Council one more category viz. Muslim was added to it.

The qualification of the electorate based on income, property and education differed from community to community and region to region.

The Government of India Act of 1919

During the First World War, Gandhiji had requested the nation to help the allies in their war efforts because they were fighting for the cause of democracy. After the war was over, the people were feeling that they would also get democratic re-

forms. The Government of India Act of 1919 was enacted to satisfy the people of India to some extent.

The salient features of the Act were as follows :

- (a) **Preamble:** The Act provided for a Preamble that laid down the basic principles and policies upon which it was based. According to it the policy of the British Parliament was – (i) to provide for the increasing association of Indians in every branch of Indian administration, (ii) to develop self governing institutions with a view to the progressive realisation of responsible government in British India as an integral part of the empire; (iii) the time and manner of gradual advance towards this goal was to be decided by the British Parliament and (iv) accordingly, the Preamble suggested for a decentralised unitary form of government.
- (b) **Distribution of Functions:** The Act divided the functions of government in two categories: central and provincial. The provincial subjects were further subdivided into transferred and reserved. In the transferred subjects the Governors were to be assisted by the ministers responsible to the legislature while in the reserved subjects the Governors were to be advised by the councillors who were not accountable to the legislature. Thus, in the provinces a new form of government, dyarchy, was introduced. Dyarchy means dual set of governments, e.g. accountable and non-accountable.
- (c) **Categories of Members:** The Act provided for three categories of members: elected, nominated officials and nominated non-officials. The first category had about 70% members, the second had about 10% and the third category had about 20%. There was majority of elected members.
- (d) **The constituencies and franchise:** The Act provided for restricted franchise and communal electorate. The voting qualification varied from province to province and within the same province it differed from rural to urban areas. The constituencies were divided into two categories: general and special. The general constituencies were demarcated to return Hindus, Muslims, Christians, Anglo-Indians, Sikhs etc. Special constituencies were devised to give representation to land holders, universities, chambers of commerce etc.
- (e) **Strength of Central Legislature:** The Act introduced bicameral legislature at the centre comprising the Council of States and the Central Legislative Assembly. The former had 60 members, of whom 33 were to be elected and 27

to be nominated. The latter consisted of 145 members, of whom 104 were to be elected and 41 to be nominated.

- (f) **Powers of Central Legislature:** The central legislature was empowered to consider, pass or reject legislation on any of the subjects enumerated in the Central list. But, the Governor-General had the last word on any Bill passed by the Legislature. He possessed the power to prevent the consideration of a Bill or any of its part, on the plea that it was injurious to the peace and tranquillity of the country. He could disallow a question in the legislature. He had the power to withhold his assent to any Bill passed by the legislature without which it could not become an Act. He also had the power to disallow an adjournment motion or debate on any matter. He could enact a law, which he considered essential for the safety and tranquillity of the empire even if the legislature had refused to pass it. The financial powers of the central legislature were also very much limited. The budget was to be divided into two categories, votable and non-votable. The votable items covered only one-third of the total expenditure. Even in this sphere the Governor-General was empowered to restore any grant refused or reduced by the legislature, if in his opinion the demand was essential for the discharge of his responsibilities.
- (g) **Powers of Provincial Legislatures :** The strength of provincial legislatures differed from province to province. The provincial legislative councils were empowered to legislate on provincial subjects. However, the Act armed the Governor with the extensive powers of legislation. He could stop at any stage the consideration of a bill on the ground that it was injurious to safety and peace of the province. He was empowered to return any bill to the house for reconsideration or reserve it for the consideration of the Governor-General who in his turn could reserve it for the opinion of the Crown. The Governor could also veto any bill passed by the Legislative Council. If the Council refused to introduce or failed to pass a bill relating to a reserved subject, the Governor by his power of certification could pass it on the plea that it was essential for the discharge of his responsibility. The Act gave the legislative councils some measure of control over the finance of the province but its financial powers were very much narrowed and circumscribed by the special powers of the Governor. The budget was divided into two parts. There were about 70% non-votable items on which only discussion could take place in the house. The remaining

30% of the budget included such demands for wants as could be reduced or rejected by the house, but the Governor retained the power to restore such demands by certifying that it was essential for the discharge of his responsibilities. In case of emergency the Governor had the power to sanction any expenditure on any item.

- (h) **The Executive Council:** It was responsible to the Secretary of State and not to the central legislature. The maximum limit imposed on the membership of the Governor-General's Executive Council was removed. Of the six members of the Governor-General's Executive Council, other than the Commander-in-Chief, three were required to be Indians. A pleader of the Indian High Court was also made eligible for appointment as the Law member.
- (i) **Secretary of State for India:** The control of the Secretary of State for India over the central and provincial administration was reduced.

The Government of India Act of 1935

The three Round Table Conferences convened in London during 1930-32 had made a number of recommendations regarding constitutional reforms in India. The Government of India Act, 1935 was the result of these recommendations.

Main features of the Act were as follows:

- (a) It was a comprehensive and detailed document. It consisted of 321 Sections and 10 Schedules. It described, in detail, not only the machinery of the centre but also of the units.
- (b) It, for the first time, introduced a federal form of polity in India. The units of federation fall into two categories: the (British) Indian provinces and the princely states (also known as native states).
- (c) The Act divided the functions of the government in three categories. The federal list contained 59 subjects, the provincial list had 54 subjects, while the concurrent list comprised of 36 subjects. While the federal and provincial governments had exclusive jurisdiction on the subjects in the federal and provincial lists respectively, both the federal and the provincial governments could legislate on the subjects in the concurrent list. It is interesting to note that the jurisdiction of the federal legislature did not extend to all the subjects mentioned in the federal list in the native states. According to the Act, the ruler of every state was required to sign an Instrument of Accession mentioning therein the extent to which it consented to surrender its authority to the federal government.
- (d) The Act also provided that such a federation could come into existence only if as many princely states (which were given the option to join or not to join the federation) would accept to join it as were entitled to one-half of the states' seats in the upper house of the federal legislature and having one-half of the total states' population.
- (e) The proposed federal polity was to have a bicameral legislature at the centre. The upper house was to be called the Council of States. It was to consist of 260 members, of whom 156 were to represent the provinces and 104 the native states. Out of these 156 representatives of the provinces 150 were to be elected on communal lines. While the seats fixed for Hindus, Muslims and Sikhs were to be filled by direct elections, the seats reserved for Europeans, Anglo-Indian Community and Indian Christians were to be filled by an indirect method through an electoral college consisting of the members of their community in the provincial legislatures. The remaining six members were to be nominated by the Governor-General. It is interesting to note that the number of seats allotted to a state depended not on the strength of its population but on the relative rank and importance of that state. The Council of States was to be a permanent house. One-third of its members were to retire every third year.
- The lower house was to be called the Federal Assembly. It was to consist of 375 members, out of which 250 were to represent the provinces and 125 to represent the princely states. While the representatives of the princely states were to be nominated by their rulers, those representing the provinces were to be elected indirectly by the provincial legislative councils on communal lines. It is interesting to note that the seats allotted to the princely states were disproportionate to their population. Similarly, the seats allotted to the various communities in the provinces were also disproportionate to their population. The term of the Assembly was five years but it could be dissolved earlier also.
- (f) The federal legislature could make laws on all the subjects included in the federal and the concurrent list. It was also empowered to legislate on provincial list in an emergency or when two or more provinces requested it to do so. However, its authority over princely states extended to those subjects only which were mentioned in their Instrument of Accession.

No Bill could become an Act unless both the houses passed it and also approved by the Governor-General. In case of differences between the two houses, provision for a joint

session of both the houses was made. The Governor-General had the authority to approve or disapprove any Bill passed by the federal legislature. Though both the houses exercised some control over the executive, by putting questions and passing adjournment motions and other resolutions, the Assembly alone could pass a vote of no confidence against the ministers.

Both the houses possessed almost equal financial powers excepting that the Money Bill could be introduced only in the Assembly. But, the Act granted only limited financial powers to the federal legislature. The Act divided the budget into two parts. The first part covered 80% of the expenditure that was beyond the control of the federal legislature. The remaining 20% required the sanction of the legislature, but, the Governor-General was empowered to restore the reductions or sanction any amount rejected by the legislature.

- (g) The Act introduced dyarchy at the federal level. The federal subjects were divided into two categories: the reserved and the transferred. The reserved subjects included Defence; External Affairs; Ecclesiastical Affairs and Tribal Areas. In these matters the Governor General possessed discretionary powers i.e., he acted on the advice of the councillors to be appointed by him. He was not even required to consult the council of ministers in these matters. Subjects not included in the above list comprised the transferred subjects. These subjects were under the charge of ministers responsible to the federal legislature. But, there were certain matters wherein the Governor General possessed the powers relating to individual judgement.

These were the powers wherein the Governor-General was required to consult the council of ministers but was not bound by their advice.

- (h) The Act also provided for a Federal Court that was to consist of a Chief Justice and not more than six other judges. They were to be appointed by His Majesty and retired at the age of 65. They could be removed earlier also on charges of misbehaviour or infirmity of mind or body by King of England on the recommendation of the Judicial Committee of the Privy Council.

The Court had Original, Appellate and Advisory jurisdictions. It was also a Court of Record. But, the Court was not the highest Court of Appeal. Appeal could be filed against its judgments to the Privy Council of England.

- (i) The Act did away with the diarchy introduced by the Gov-

ernment of India Act, 1919 and introduced provincial autonomy in the provinces. Accordingly, the Governors were required ordinarily to act on the advice of council of ministers responsible to the provincial legislature excepting when they exercised their discretionary powers or powers of individual judgment.

It is interesting to note that the Act did not enumerate the discretionary powers of the Governor. The Governor, at discretion, decided as to what were his discretionary powers. Thus, the Governor could misuse his authority and make the provincial autonomy a mockery.

- (j) The Act provided for bicameral legislatures in six provinces and unicameral in five provinces. The lower house was to be called Legislative Assembly and the upper house, Legislative Council. The strength of the upper and lower houses varied from province to province.

- (k) While the Act completely abolished the categories of the nominated members from assemblies, it continued to have a few nominated members in the Councils. The Act suggested direct elections for both the houses. The basis of the allotment of the seats to various communities was on the notorious communal award, given by Ramsay Macdonald, as amended by Poona Pact.

The basic principle of the scheme was that the seats reserved for a community were to be contested only by persons belonging to that community and they were to be elected by members of that community alone.

- (k) The provincial legislatures were empowered to legislate not only on the subjects included in the provincial list but also on those included in the concurrent list. But a provincial law on a concurrent subject held good in so far as it did not go against a federal law on the subject. In case of a conflict, the federal law was to prevail.

There were certain limitations on the legislative powers of the provincial legislatures. In some cases prior permission of the Governor-General was needed before a Bill could be introduced in a legislature. Bills relating to an Act of the British Parliament or that of the Governor-General or Governor or affecting the discretionary powers of the Governor fall in this category.

Both the houses could exercise some control over the executive of the province by putting questions, supplementary questions or moving adjournment motions etc. The control of the Assembly, however, was substantial in the sense that it could pass a vote of censure against the council of ministers.

The legislatures also enjoyed some limited financial powers. The budget of the province was divided into votable and non-votable categories. Votable items constituted 30% of the expenditure while non-votable items comprised 70% of the budget. Even in the votable category, the Governor could restore any reduction or cut passed by the legislature if he considered it necessary for efficient administration of the province, (1) Besides the above, the Act also provided for the abolition of India Council, separation of Burma from India, creation of Federal Railway, appointments of an Advocate General and a Financial Adviser.

Cabinet Mission Plan

After the War (i.e. Second World War) was over, elections were held in England. Labour Party came to power. It was sympathetic towards the cause of India. The British Government sent a Parliamentary delegation to India to get first hand information about the political situation in India. After its report, the British Government sent a committee of three members of the British Cabinet that was authorized to evolve a formula acceptable to the prominent political parties of India. The Cabinet Committee, accordingly, met different leaders of different political parties and then offered its recommendations in two instalments. On May 16, 1946 it announced its proposals for a long-term settlement and on June 16, 1946 it outlined a procedure for the formation of Interim Government.

Proposals for long-term: The main provisions of the long-term proposals were as follows:

- (a) There should be a Union of India comprising provinces and the princely states.
- (b) The Union should have jurisdiction on Foreign Affairs, Defence and Communication and should have necessary powers to raise finances.
- (c) The Union should have an executive and a legislature consisting of Representatives of both the provinces and princely states.
- (d) Any question relating to a major communal issue in the legislature should be decided by a majority of members present and voting belonging to that community as well as a majority of all the members of the legislature present and voting.
- (e) Provinces should be free to form groups and each group could determine the provincial subjects to be taken in common.
- (f) The Constitution of the Union and of the groups should contain a provision whereby any province could, by a

majority vote of the Legislative Assembly call for a reconsideration of the terms of the Constitution after an initial period of ten years and at ten yearly intervals thereafter.

Proposals for Constitution making machinery:

The main provisions of the proposals for Constitution making machinery were as follows:

- (a) A constituent Assembly should be constituted consisting 389 members, 296 representing the provinces and 93 the princely states. Each province was to be allotted a number of seats proportional to its population. The total number of seats allotted to a province was to be divided among the main communities (General, Muslims and Sikhs) in proportion to their population and were to be elected by members of the same community in the Legislative Assembly. The number of seats allotted to each princely state was also to be fixed on the basis of population but the mode of choosing their representatives was to be settled in consultation with a Negotiating Committee.
- (b) The members of the Constituent Assembly, so constituted, would be divided into the following three groups:
 - (i) Provinces not claimed for and representing Hindu majority regions viz., Madras, Bombay, the United Provinces, Bihar and Orissa.
 - (ii) Territories claimed for Pakistan and representing the North Western Muslim majority regions viz., Punjab, North Western Frontier Province, Sindh and British Baluchistan.
 - (iii) Territories claimed for Pakistan and representing the North Eastern Muslim majority regions viz., Bengal and Assam.
- (c) Each group was to settle the constitution of the provinces included in it and also whether any constitution for the group as a whole to be set up and, if so, the extent of its powers.
- (d) After the group constitutions were settled, the groups were to assemble together to settle the Union Constitution.
- (e) After the first general election under the new constitution, it was to be open to any province to come out of any group, in which it was placed, by a resolution of its legislature.

British Indian Treaty : A treaty will be negotiated between the Constituent Assembly and the United Kingdom to provide for certain matters arising out of the transfer of power. It was, however, hoped that India would decide to remain a member of the Commonwealth. But at the same time, she was given the right to go out of Commonwealth, if so desired.

Recommendation for Short-Term Plan: The Plan envisaged immediate setting up of an Interim Government in order to carry on administration while the constitution making was in progress. The interim government was to have 14 members: 6 Congressmen, 5 Leaguers, 1 Indian Christian, 1 Sikh and 1 Parsee.

In the Interim Government all the portfolios were to be held by Indians and the British Government was to give full co-operation in the accomplishment of the tasks that confronted the Interim Government.

Evaluation of the Plans : All the major political parties accepted the Plan, with all its drawbacks; and elections were held for a Constituent Assembly. But differences arose between the Congress and the League regarding the interpretation of the Plan. Though the Plan ruled out Pakistan in name, it definitely conceded in substance. This caused trouble and on July 10, 1946 the League withdrew its acceptance.

Interim Government and Direct Action: On August 14, 1946 an Interim Government was formed under the leadership of Jawahar Lal Nehru. The Muslim League did not join it. The League declared August 16, 1946 as 'Direct Action Day. On that day a systematic killing and looting of the Hindus began which lasted for four days. About three thousand people were killed and thousands worth of property destroyed. While the carnage continued in Calcutta, Noakhali, Bihar and other places, attempts were continued to bring the League in the Interim Government. As a result, League joined the Interim Government on October 13, 1946. This Government remained in office till the partition of India in August 1947.

Mountbatten Plan

As per Cabinet Mission Plan, the Constituent Assembly was at work framing the Constitution, but the League members boycotted it. This made the British Government's task of transferring power to Indian hands difficult. Though it declared June 1948 to be the deadline for the transfer of power, it was felt that it would not be appropriate for it to transfer power to an Assembly that was not fully representative. In order to work-out a formula, acceptable to all sections of people, for resolving this problem the British Government appointed Mountbatten as the Governor-General of India, who reached India on March 24, 1947. While on the one hand Mountbatten was negotiating with the leaders of different parties for evolving a formula, a strong agitation was started for the partition of Bengal and Punjab in the wake of communal riots and violence at a vast scale. This gave an opportunity to Mountbatten to announce his plan for solving the problem.

It declared that partition of India was the only possible solution of the Indian problem. The three disputed Provinces viz., Assam, Bengal and Punjab would also be partitioned. A referendum would be held in the North-Western Frontier Province to decide whether that Province would like to join Pakistan or India. A referendum would be held in the Sylhet division of Assam also to determine whether it would like to remain part of Assam or join East Bengal that would be a part of Pakistan. The Plan indicated a willingness of the British Government to transfer power before June 1948. As the Plan was accepted by all the major parties of India, a Bill was introduced in the Parliament viz., Indian Independence Bill, 1947 which was passed by it and it became the Indian Independence Act, 1947.

Indian Independence Act of 1947

The main Provisions of the Act are as follows:

- (a) The Act provided for the creation of two independent Dominions, viz., India and Pakistan.
- (b) It provided for the partition of Punjab and Bengal and separate boundary commissions to demarcate the boundaries between them.
- (c) Besides West Punjab and East Bengal, Pakistan was to comprise territories of Sindh, North Western Frontier Province, Sylhet division of Assam, Bhawalpur, Khairpur, Baluchistan and eight other relatively minor princely states in Baluchistan.
- (d) The paramount authority of British Crown over the princely states was to lapse, and they were free to join the Dominion of India or Pakistan or remain independent.
- (e) The British Government was not to exercise any authority in future over the tribal areas and any treaty or agreement in force, at the time of passing of the Act, between British Government and any tribal authority was also to lapse.
- (f) Both the Dominions of India and Pakistan were to have GovernorGenerals appointed by the British King. The Act also provided for one common Governor-General if both the Dominions so agreed.
- (g) The Constituent Assemblies of both the Dominions were free to frame the constitution for their respective countries without any limitation whatsoever. They were also free to withdraw from the British Commonwealth.
- (h) For the time being, till the new constitutions were framed, each of the Dominions and all the provinces were to be governed in accordance with the Government of India Act, 1935 with such modifications, omissions or additions as may be done by the Governor-General-in-Council.