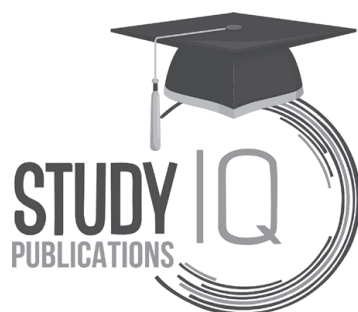


2nd
Edition

INDIAN POLITY

FOR UPSC CSE & STATE PCS EXAMS





Indian Polity

A Complete Guide on the Concepts of Indian Polity for
UPSC CSE and State PCS Examinations

Study IQ Education Pvt. Ltd.

Indian Polity

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Preface

Dear Aspirants,

Welcome to the world of **Indian Polity**, a comprehensive book meticulously crafted by **StudyIQ Publications**. This book is not just an accumulation of information; it's a curated exploration incorporating key Supreme Court judgments, relevant constituent assembly debates, essential constitutional articles & amendments, and contemporary political issues.

Key features of this book can be summarised as follows:

This book aims to make your preparation focused and relevant based on UPSC's current trend and pattern, it is revision-friendly, and up-to-date.

- **Extensive coverage of contemporary issues:** Key Current affairs issues have been included in the chapters to provide aspirants with an integrated approach to their preparation.
- **Constituent assembly debates:** These are integrated within chapters which will be helpful in providing different perspectives to aspirants.
- **Lucid Language:** Simple explanation of complex Supreme Court judgments would help aspirants in utilising them for their Mains preparation.
- **"Remember This" boxes:** The content in these boxes adds extra value to the preparation of Indian Polity from a Preliminary exam point of view.
- **Previous Year Questions** of both the Preliminary and Mains examinations are provided at the end of every chapter.
- **Revision Friendly:** The book is revision friendly as great care has been taken to highlight the important bits and provide the content in simple as well as clear language.
- **One-stop solution:** The book is designed in such a way that civil services aspirants would find it essential for all stages of the examination process i.e., Prelims, Mains, and Interview.

A special acknowledgment goes to **Vishal Parmeshwar Jaybhaye**, whose unwavering support in the creation, review, and finalization of the content has been instrumental.

At StudyIQ, we continually strive to push the boundaries of excellence in the field of education. "Indian Polity" is a testament to our commitment to providing every civil services aspirant with access to the best resources. We believe that education is the key to empowerment, and this book is a significant step in that direction.

With all sincerity and humility, the Study IQ team wishes you the best in your preparation, and we are hopeful that this book will help you in your journey.

From,

The Editorial Board

StudyIQ Publication

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SECTION-A

PHILOSOPHY OF

CONSTITUTION

CHAPTER

1

Historical Underpinnings

In 1600, the British arrived in India as traders in the form of the East India Company (EIC). Under a Charter granted by Queen Elizabeth I, the company had exclusive rights to trading in India. Initially, they only engaged in trading and were not motivated by political gains. However, this scenario changed after their victory in the **Battle of Buxar in 1764**.

The EIC, which until then was only engaged in trade, gained Diwani rights (rights over revenue) of Bengal, Bihar and Orissa. This marked the rise of EIC as a territorial force. The company went on to administer India till 1858 when the British Crown directly assumed control of India's affairs in the wake of the 'Revolt of 1857'. The British government went on to rule India till its independence on August 15th, 1947.

The British government passed various acts, initially to regulate East India company and later for the governance of India. However, none of these met Indian expectations mainly because they were brought by a foreign power and their ultimate aim was to fulfil their own interests. All the constitutional developments prior to independence were imposed upon Indians and Indian opinion in these developments was constantly ignored.

The company rule from 1773 – 1858 was followed by the direct rule of the crown (1858 to 1947). Various constitutional and administrative changes were introduced by the British through these acts. Although they were brought with the objective of serving British Imperial ideology, they eventually became responsible in introducing various elements of democracy and modern state into the Indian political and administrative system. The evolution of the Indian Constitution can be traced back to such acts and policies undertaken during the Company

and the British administration. The evolution can be studied under two broad phases:

- The Company rule (1773-1858)
- The Crown rule (1858-1947)

THE COMPANY RULE (1773-1858)

REGULATING ACT OF 1773

The Regulating Act of 1773 was enacted by the British Parliament to regulate the EIC's Indian territories, mainly in Bengal. This legislative act represented the initial involvement of the British government in the company's territorial administration and signaled the commencement of a gradual takeover process that culminated in 1858.

BACKGROUND

The Act was passed because of the following reasons:

- **Financial Distress:** The East India Company was in dire financial stress. The company was important to the British Empire as the EIC had trading monopoly in India and in the east. The Company paid £40,000 annually to the government to maintain its monopoly but it had been unable to meet its commitments since 1768. In 1772, the company had asked for a loan of 1 million pounds from the British government. Thus, the British government decided to take steps to regulate the affairs of the company.
- **Inefficient Dual System:** After winning the Diwani rights of Bengal, Robert Clive introduced Dual system of administration. In this system, Nawab of Bengal was responsible

for “Nizamat” i.e. Judicial and political functions and the Company had “Diwani’ rights i.e. Revenue Collection rights. The company had no responsibilities and enjoyed power. Whereas the Nawab was burdened with the responsibility of administration without the resources i.e. responsibility without power. As a result, farmers and the general population suffered as their welfare was neglected.

- **Poor administration:** There were many allegations of corruption and nepotism against the company officials. The misadministration of Bengal was one of the major reasons for the Great Bengal famine of 1770. Also, during the famine, the company did not take any meaningful mitigation efforts to provide relief to the people like reduction in taxation etc.
- **Defeat against Mysore:** The company forces were defeated by Hyder Ali in the 1st Anglo – Mysore war (1767 to 1769).

PROVISIONS OF THE ACT

- **Designation:** The Act changed the designation of the Governor of Bengal as the Governor General of Bengal. Warren Hastings was appointed as the first Governor General of Bengal.
- **Executive Council:** Constituted a four-member Executive Council to assist the Governor General of Bengal in his role.
- **Centralisation:** The Governors of Bombay and Madras were made subordinates to the Governor-General of Bengal. With this, the autonomy of the Governor of Bombay and Madras was diminished.
- **Supreme court:** A Supreme court in Calcutta was established in 1774 comprising one chief justice and three other judges. Its first Chief Justice was Sir Elijah Impey.
- **Restriction on private trade:** The Act barred the officials of the company from engaging in private commerce or receiving bribes and gifts from the native population.

- **Accountability of EIC:** It mandated that the Company’s governing body, the Court of Directors, disclose all its official affairs to the British Government, including revenue, civil, and military matters.

Remember this

The then **Mughal Emperor Shah Alam II** granted ‘Diwani’ rights of Bengal, Bihar, and Orissa to the East India Company in 1765.

SIGNIFICANCE OF THE ACT

- **Regulation of company affairs:** It was the first step by the British parliament to regulate and control the affairs of the East India company.
- **Centralised administration:** It laid the foundation of centralised administration in India by making the Governors of Bombay and Madras presidencies subordinate to the Governor-General of Bengal.
- **Official recognition:** For the first time ever, the political and administrative functions of the company in India were officially recognised.

ISSUES WITH ACT

- The Governor General didn’t have any veto power in the Executive council.
- Powers of the Supreme court were not well defined.
- **Lack of coordination:** Governors of Madras and Bombay restrained themselves from following the orders of the Governor-General of Bengal, whose significant example was the First Anglo-Maratha war (1775-82).
- **Turned out to be ineffective:** There was no mechanism to study the reports sent by the Governor-General in Council. Thus, the parliamentary control that was sought in the activities of the company proved to be ineffective. The act was also unable to stop corruption among company officials.

AMENDING ACT OF 1781

BACKGROUND

This act was passed by the British Parliament on 5th July 1781 to remove the defects of the Regulating Act of 1773. It is also known as the **Act of Settlement, 1781**. The biggest problem created by the Regulating Act was the tussle between the Supreme Court and the Governor General in Council.

In the year 1777, a complaint was made by the directors of the company against the Supreme Court as for them it was difficult to run the administration. To address this complaint, the House of Commons (Lower house of the British Parliament), appointed a committee known as **Touchet Committee** to do an inquiry about the administration of Bengal, Bihar, and Odisha. The report of this committee led to the enactment of the Act of Settlement of 1781.

PROVISIONS OF THE ACT

Many provisions of the act curtailed the power of the court by providing for exemptions and restricting the jurisdiction of the court:

- **Official function:** Acts done by the Governor General, its Council and the servants of the Company in their official capacity were exempted from the jurisdiction of the Supreme court.
- **Revenue matters:** All the matters related to revenue were also exempted from the jurisdiction of the court.
- **Appellate Jurisdiction:** The Court's appellate jurisdiction was also curtailed. The appeals from the Provincial Courts could be taken to the Governor-General-in-Council and not to the Supreme Court.
- **Regulations:** The act empowered the Governor-General-in-Council to frame regulations for the Provincial Courts and Councils.
- **Defined territorial Jurisdiction:** Court's territorial jurisdiction was applicable to all

inhabitants of Calcutta. Hindus were to be tried according to the Hindu law and Muslims were to be tried according to the Mohammedan law.

SIGNIFICANCE OF THE ACT

The Amending Act of 1781 was the first attempt in India towards the separation of the executive from the judiciary by defining the respective areas of jurisdiction.

PITT'S INDIA ACT OF 1784

BACKGROUND

Britain's increased possessions in India made it necessary for the administration there to be supervised by the government rather than be left in the hands of the commercial East India Company. The aim of the act was to bring the rule of EIC in India under the control of the British government. This act resulted in dual control of British possessions in India by the British government and the Company. However, the final authority rested with the government.

PROVISIONS OF THE ACT

- **Double Government:** It introduced the system of double government. A Board of Control was created for managing political affairs and the Court of directors was entrusted with managing the commercial affairs and day-to-day administration of the company.
- **Representation:** In this system, the British government was represented by the Board of Control and the company was represented by the Court of Directors.
- **Change in composition:** The Governor-General's council's strength was reduced to three members. One of the three would be the Commander-in-Chief of the British Crown's army in India.
- **Disclosure of Property:** It was made mandatory for all civil and military officers to disclose

CHAPTER

2

Making of the Constitution

In the previous chapter, we discussed how acts passed by the Colonial government influenced the polity in our country. One of the most significant acts passed by the British Government - Government of India Act, 1935 - had a profound impact on the Indian Constitution. Although British enactments shaped the political discourse in our country, Indian opinion was neglected constantly. It is in this context that our constitutional forefathers desired to have a constitution framed by Indians for the independent India.

DEMAND FOR CONSTITUENT ASSEMBLY FOR A CONSTITUENT ASSEMBLY

The first definite reference to a Constituent Assembly (though not under those words or under that particular name) can be found in a statement of Mahatma Gandhi, made so far back as 1922. Mahatma Gandhi wrote - "Swaraj will not be a free gift of the British Parliament. It will be a declaration of India's full self-expression, expressed through an Act of Parliament....The British Parliament, when the settlement comes, will ratify the wishes of the people of India as expressed through the freely chosen representatives."

In 1934, Swaraj Party formulated a scheme in which the following resolution was included:-

'This Conference claims for India the right of self-determination, and the only method of applying that principle is to **convene a Constituent Assembly**, representative of all sections of the Indian people, **to frame an acceptable constitution.**' The policy embodied in this resolution was approved by the All-India Congress Committee, which met at Patna

in May, 1934; and it was thus that the scheme of a Constituent Assembly for framing the Indian Constitution was officially adopted by the Indian National Congress.

The above resolution was confirmed at the session of the Congress held at **Faizpur in December 1936**. The confirming resolution declared that- 'The Congress stands for a genuine democratic State in India where political power has been transferred to the people, as a whole, and the Government is under their effective control. Such a State can only come into existence through a Constituent Assembly having the power to determine finally the constitution of the country.'

Remember this

M. N. Roy, a pioneer of communist movement in India, came up with the idea of having a constituent assembly in 1934.

AUGUST OFFER

In early 1940, Lord Linlithgow, the then Viceroy of India responded to these demands through the August Offer.

This proposal included:

- the establishment of an advisory war council,
- the inclusion of more Indians in administration, and
- recognized the right of Indians to frame their own Constitution after the end of the Second World War.

The offer was, however, rejected by both the Congress Working Committee and the Muslim League.

CRIPPS MISSION

The Cripps Mission, headed by Sir Stafford Cripps, was sent in March 1942. It was entrusted with drafting a proposal on framing an independent constitution after the end of World War II. However, it also failed in attaining its objective as both the Congress and the Muslim League both criticised its provisions. Main contentions of the Congress and the Muslim League were as follows-

The Congress objected to:

- The offer of dominion status instead of a provision for complete independence.
- Representation of the states by nominees and not by elected representatives.
- Right to provinces to secede as this went against the principle of national unity.
- Absence of any plan for immediate transfer of power and absence of any real share in defence; the governor-general's supremacy had been retained, and the demand for governor-general being only the constitutional head had not been accepted.

The Muslim League:

- Criticised the idea of a single Indian Union.
- Did not like the machinery for the creation of a constituent assembly and the procedure to decide on the accession of provinces to the Union.
- Thought that the proposals denied the Muslims the right to self-determination and the creation of Pakistan.

CABINET MISSION

In 1946, the Cabinet Mission was sent to India with the objective to discuss the transfer of power from the British Government to Indian leadership.

- It held discussions with representatives of British India and those of the Indian States to set up a Constituent body.
- It put forth a scheme for the formation of the Constituent Assembly.

The scheme was accepted by the Indian National Congress and the Muslim League. Thus, the Constituent Assembly for India was formed under the provisions of this plan.

FORMATION OF CONSTITUENT ASSEMBLY

The Constituent Assembly was constituted in November 1946. The primary task of the Constituent Assembly was to frame a Constitution for India to enable the appropriate transfer of sovereign power from British authorities to Indian leadership. To give adequate representation to various sections, the Assembly had members from existing provincial legislatures and from various princely states.

- **Composition:** There were to be a total of 389 representatives from the undivided India to form the Constituent Assembly. This included 296 representatives from British Indian provinces, 93 representatives from the princely states, and 4 representatives from the Chief Commissioner's provinces.
- **Allocation of seats:** Every province and princely state was to be allotted seats in proportion to their respective population. Roughly, for every one million population, there was to be one representative. In British provinces, allocated seats were divided among the three principal communities – Muslims, Sikhs, and General (all except Muslims and Sikhs), in proportion to their population.
- **Mode of election:** The members of the Constituent Assembly were not elected directly by the people of India. Instead, it was to be a partially indirectly elected and partially nominated body. Members from provinces were elected by the members of the provincial legislative assembly. This was done on the basis of proportional representation by the method of a single transferable vote. In case of princely states, the representatives were to be nominated by the heads of princely states.

- **Participation of princely states:** Initially, the princely states did not participate in the Constituent Assembly as they wanted to establish and rule their independent states after the exit of the British administration. However, they joined it later
- **Representation:** The Constituent Assembly thus formed included all important personalities at the time with the exception of Mahatma Gandhi. It gave representation to various sections of society including Hindus, Muslims, Sikhs, Parsis, Anglo-Indians, Indian Christians, SCs, STs and women.
- **Elections:** The elections to the Constituent Assembly (for 296 seats allotted to the British Indian Provinces) were held in July-August 1946. The Indian National Congress won 208 seats, the Muslim League 73 seats and the small groups and independents got the remaining 15 seats.

The members of the Constituent Assembly held their first meeting on 9th December 1946 in the Constitution Hall now popularly referred to as the Central Hall. This meeting was boycotted by the Muslim League which insisted on a separate state of Pakistan. Thus, the meeting was attended by 211 members and was presided over by the temporary Chairman Dr. Sachchidananda Sinha who was the oldest member in the Assembly.

The members passed a resolution on 10th December 1946 for election of a permanent chairman, and on 11th December 1946, Dr. Rajendra Prasad was elected as the permanent Chairman of the Constituent Assembly. The Assembly also had two Vice-Presidents: H.C. Mukherjee and V.T. Krishnamachari.

Further, the representatives of the princely states, who, initially, did not participate in the Constituent Assembly, gradually joined it. While only six states were represented in the Constituent Assembly in 1947, after the acceptance of the Mountbatten Plan of June 3, 1947, most princely states took their seats in the Assembly. The members of the Muslim

League from the Indian Dominion also took their place in the Assembly.

Remember This

The strength of the Constituent assembly reduced to 299 members after the partition. Out of these 299 members, 15 were women. Names of 15 Women members of our constituent assembly are as follows-

1. Ammu Swaminathan
2. Dakshayani Velayudhan
3. Begum Aizaz Rasul
4. Durgabai Deshmukh
5. Hansa Mehta
6. Kamla Chaudhary
7. Leela Roy
8. Malati Choudhury
9. Purnima Banerjee
10. Rajkumari Amrit Kaur
11. Renuka Ray
12. Sarojini Naidu
13. Sucheta Kriplani
14. Vijalakshami Pandit
15. Annie Mascarene

226 members out of 299 Members of the constituent assembly were representatives from British Indian Provinces, three members were from Chief Commissioner's Provinces and the remaining 70 represented princely states.

CHANGES MADE IN THE CONSTITUENT ASSEMBLY BY THE INDIAN INDEPENDENCE ACT, 1947

- **Sovereign body:** It made the Assembly a fully sovereign body and also a legislative body. This meant that the Assembly could frame any Constitution and abrogate or alter any law made by the British government.
- **Legislative body:** As a legislative body, it performed two different functions: framing the Constitution and enactment of ordinary laws for free India.