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THE SIGNIFICANCE OF GOVERNMENT OF INDIA ACT, 1935

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ABSTRACT

The Government of India Act, 1935 was passed by British Parliament in August 1935. With 321 sections and 10 schedules, this was the longest act passed by British Parliament so far and was later split into two parts viz. Government of India Act, 1935 and Government of Burma Act, 1935. The demand for constitutional reforms in India has been quite old. The Government of India Act, 1935 derived material from four key sources viz. Report of the Simon Commission, 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 the Government of India Act 1919, and provided for establishment of a Federation of India to be made up of provinces of British India and some or all of the Princely states. However, the federation never came into being as the required number of princely states did not join it. It was the last constitution of British India which split Burma from it. It lasted until 1947, when British territory was split into Pakistan and India.

With the announcement of the appointment of the Statutory Commission, known commonly as the Simon Commission, in November 1927, the issue of the future constitutional set-up of the country gained prominence. The speeches delivered at the Madras Congress session of 1927 were very sharp and critical, indicating that the mood of a large section of Congressmen was changing. With regard to the Statutory Commission, M.A. Ansari reminded the delegates that the need for a constitution sponsored by Indians had been felt for a long time. He argued that the task of "framing a constitution for a people consisting of 320 million souls, professing different religions and speaking different languages will be the most unique and gigantic experiment in democracy ever attempted," (19-20) and cautioned everyone that it would be a 190 challenging venture. The AICC called upon the Congress Working Committee to frame a Swaraj Constitution in consultation with the elected member of the legislatures and other leaders of political parties.

The first Round Table Conference opened on 12th November 1930 and its sessions continued for more than two months. The conference was composed of nominated members, most of whom could be relied upon to play the British game. It was attended by 89 members; 16 from the three British political parties, 16 from the Indian States, and 57 from the various sections and groups of India. But without the Congress the conference was an empty pageant, a *tamasha* of reactionaries dancing to British fiddling, a 'marriage without the bridegroom'. (Resolution of the Congress, 251). The strength of the Congress and its title to speak for a vast majority of the Indian people was stated and endorsed by speaker after speaker in the course of discussions in the conference. C.Y. Chintamani deplored the British system of administration 'which can be maintained only by casting into jail such noble beings as Mahatma Gandhi and Madan Mohan Malaviya is a doomed system'. Srinivasa Sastri assured the Conference that the Congress leaders 'are our kinsmen both in spirit and blood. It is a sense of political grievance that has placed them in this position. Remove that discontent and you will find them alongside you.' The Resolution of the Bombay session of the Indian National Congress, October 1934. (77-78)

The Act did not meet the aspirations of Indians. The Government of India Act, 1935, did not meet the aspirations of Indians. They regarded it as a retrograde step, "a prodigy of imperialist statesmanship." The All-India Muslim League registered its "emphatic protest against forcing the Constitution as embodied in the Government of India Act of 1935, upon the people of India, against their will and in spite of their repeated disapproval and dissent, expressed by various parties and bodies in India." The Muslim League was clearly of the opinion that the scheme of All-India Federation, which

the Act envisaged, was fundamentally bad. "It is most reactionary, retrograde, injurious and fatal to the vital interests of British India vis-à-vis the Indian States, and it is calculated to thwart and delay indefinitely the realization of India's most cherished goal of complete responsible government and is totally unacceptable." (66-67) Jawaharlal Nehru described the Act as a "new charter of bondage." The Lucknow session of the Indian National Congress held in April 1936 resolved, "whereas the Government of India Act, 1935, which is based on the White Paper and Joint Parliamentary Report and which is in many respects even worse than the proposals contained in them, in no way represents the will of the nation, is designed to facilitate and perpetuate the domination and exploitation of the people of India and is imposed on the country to the accompaniment of widespread repression and the suppression of civil liberties, the Congress reiterates its rejection of the new Constitution in its entirety." (77) The resolution declared that no Constitution 'imposed by outside authority and no Constitution which curtails the sovereignty of the people of India and does not recognise their right to shape and control fully their political and economic future can be accepted.' In the opinion of the Congress such a Constitution "must be based on the independence of India as a nation and it can only be framed by a Constituent Assembly elected on adult franchise or a franchise which approximated to it as nearly as possible.

" The Congress, therefore, reiterated and stressed the demand for a Constituent Assembly "in the name of Indian people and calls upon its representatives and members in Legislatures and outside to work for the fulfilment of this demand." The Congress contested the elections to the Legislatures under the Act in accordance with its "mandate and in pursuance of its declared policy"." The Congress went to the Legislatures not "to co-operate in any way with the Act but to combat it."

The Government of India Act, 1935 contemplated to set up an All-India Federation, but the scheme would have set up a limp federation full of undesirable features, ill-balanced as between the federating States and the British Provinces and denied powers which are the sine qua non of a federal polity. A federation is formed voluntarily by independent or autonomous states desirous of a union for certain common purposes. But in the scheme of federation proposed by the Act of 1935, the Provinces were to join it compulsorily whereas the Indian States had the choice to accede to the federation or to stay out. Then, the units forming the federation were not well-defined cultural groups with definite affinities of language and tradition. They were the products of accidents of military conquest and administrative convenience and differed in size and population in a degree which was unprecedented in the

history of federalism. This disparity led to the surrender of a normal feature of the composition of the Federal Legislature, namely, the equality of status and representation in the upper Chamber. Another disquieting feature of the proposed federation was that there was no uniformity in the scope of the federal legislation applicable to the different units. The subjects, assigned to the Provinces were identical and the jurisdiction of the Federal Legislature was specified in the Federal List as contained in the Seventh Schedule of the Act of 1935. In the case of the Federating States on the other hand, it was to depend upon the terms of the Instrument of Accession of each particular State. And, contrary to the practice of a federal polity, the residuary power rested with the Governor-General who decided, in his discretion, whether a particular subject, not enumerated in any of the three Legislative Lists, should belong to the Federation or to the Provinces.

The All-India Federation was to be unique in so far as it sought to bring together unit, of varying political status and character. "The British Provinces with semi-democratic institutions were to be tagged to States most of which were governed despotically without any internal constitutional check on (the powers and the authority of the Rulers. The method by which the federated States were to be represented in the Federal legislature was essentially undemocratic, as it completely ignored the people of the States. While the representatives of India were to be elected, those of the States were to be nominated by the Rulers and the people were to have no legal voice in their selection. The composition of the Federal Assembly, the representative Chamber of the Federal Legislature, was a complete negation of the basic principles of federalism. While the States' representatives were to be the nominees of the Rulers, the representatives from the Provinces were to be "directly elected On the basis of separate conullmal electorates. The Chamber, therefore, did not represent the nation. The Upper Chamber, according to the theory and practice of federalism, is representative of the units on the basis of equality and advisably elections to it are indirect. But according to the Act of 1935, "the Council of States was to be directly elected, the allocation of seats to the Provinces varied from Province to Province, and Anglo-Indians, Europeans and Indian Christians were assigned specified seats." (12) The Council of States consisted of one hundred and fifty-Six representatives of British India and not more than one hundred and four representatives of the Indian States.

Accordingly, the Government of India Act, 1935 introduced Provincial Autonomy and it formed the subject-matter of Part III of the Act, which was devoted to the Governors' Provinces. The Act abolished dyarchy and the administrative authority was to be exercised by the Governor who was to be aided and advised by a Council of Ministers, except in so far as he was required to act in his discretion. As a measure of abundant caution a provision was added in the Act that "nothing in this sub-section shall be construed as preventing the Governor from exercising his individual judgment in any case whereby or under this Act he is required so to do."

The Ministers were to be chosen and summoned by the Governor and they held office during his pleasure, Though the Ministers were appointed by the Governor in his discretion, the Instrument of Instructions required that he would select "in consultation with the person, who, in his judgment, is most likely to command a stable majority in the Legislature, those persons (including so far as practicable members of important minority communities) who will best be in a position collectively to command the confidence of the Legislature." The Instrument of Instructions, thus, enjoined upon the Governor "to bear constantly in mind the need for fostering a sense of joint responsibility among his Ministers." (Rajendra Prasad, 307)

REFERENCES:

1. All-India Muslim League Resolutions, 1924-36.

2. Ansari, M.A. Resolution of the Congress working committee, June, 1934 (quoted in A.C. Banerjee).
 3. Banerjee, A.C. Resolution of the Congress Working Committee, June 1934.
 4. Chintamani. C.Y, The Indian Annual Register, Vol. -II, Allahabad, 1934.
 5. Lintlithgow Lord, Government of India Act, 1935, First Schedule.
 6. Lintlithgow Lord, Government of India Act, 1935, Section 50(1).
 7. Indian National Congress Resolutions, 1934-36 (Allahabad).
 8. Nehru, J.L. Presidential Address, Indian National Congress, " Session, December 1936. Faizpur.
 9. Prasad, Rajendra : Correspondence and Selected Document.
 10. The Indian National Congress, Resolutions 1934-36, All India Congress committee papers, Allahabad, pp. 19-20.