

The background of the journal cover features a top-down view of a desk. On the left, a pair of black leather brogue shoes is partially visible. In the center, an open notebook with lined pages and a silver pen lies on a light-colored wooden surface. To the right, a black leather bag with a zipper and a black leather watch with a silver face are also visible. A large, semi-transparent white rectangular box is centered over the image, containing the journal's title and ISSN information.

INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, translated, or distributed in any form or by any means—whether electronic, mechanical, photocopying, recording, scanning, or otherwise—without the prior written permission of the Editor-in-Chief of *White Black Legal – The Law Journal*.

All copyrights in the articles published in this journal vest with *White Black Legal – The Law Journal*, unless otherwise expressly stated. Authors are solely responsible for the originality, authenticity, accuracy, and legality of the content submitted and published.

The views, opinions, interpretations, and conclusions expressed in the articles are exclusively those of the respective authors. They do not represent or reflect the views of the Editorial Board, Editors, Reviewers, Advisors, Publisher, or Management of *White Black Legal*.

While reasonable efforts are made to ensure academic quality and accuracy through editorial and peer-review processes, *White Black Legal* makes no representations or warranties, express or implied, regarding the completeness, accuracy, reliability, or suitability of the content published. The journal shall not be liable for any errors, omissions, inaccuracies, or consequences arising from the use, interpretation, or reliance upon the information contained in this publication.

The content published in this journal is intended solely for academic and informational purposes and shall not be construed as legal advice, professional advice, or legal opinion. *White Black Legal* expressly disclaims all liability for any loss, damage, claim, or legal consequence arising directly or indirectly from the use of any material published herein.

ABOUT WHITE BLACK LEGAL

White Black Legal – The Law Journal is an open-access, peer-reviewed, and refereed legal journal established to provide a scholarly platform for the examination and discussion of contemporary legal issues. The journal is dedicated to encouraging rigorous legal research, critical analysis, and informed academic discourse across diverse fields of law.

The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

In a rapidly evolving social, economic, and technological environment, the journal endeavours to examine the changing role of law and its impact on governance, justice systems, and society. *White Black Legal* remains committed to academic integrity, ethical research practices, and the dissemination of accessible legal scholarship to a global readership.

AIM & SCOPE

The aim of *White Black Legal – The Law Journal* is to promote excellence in legal research and to provide a credible academic forum for the analysis, discussion, and advancement of contemporary legal issues. The journal encourages original, analytical, and well-researched contributions that add substantive value to legal scholarship.

The journal publishes scholarly works examining doctrinal, theoretical, empirical, and interdisciplinary perspectives of law. Submissions are welcomed from academicians, legal professionals, researchers, scholars, and students who demonstrate intellectual rigour, analytical clarity, and relevance to current legal and policy developments.

The scope of the journal includes, but is not limited to:

- Constitutional and Administrative Law
- Criminal Law and Criminal Justice
- Corporate, Commercial, and Business Laws
- Intellectual Property and Technology Law
- International Law and Human Rights
- Environmental and Sustainable Development Law
- Cyber Law, Artificial Intelligence, and Emerging Technologies
- Family Law, Labour Law, and Social Justice Studies

The journal accepts original research articles, case comments, legislative and policy analyses, book reviews, and interdisciplinary studies addressing legal issues at national and international levels. All submissions are subject to a rigorous double-blind peer-review process to ensure academic quality, originality, and relevance.

Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

“GOVERNMENT OF INDIA ACT, 1935: AN ANALYTICAL STUDY OF ITS CONSTITUTIONAL LEGACY IN MODERN INDIA”

AUTHORED BY - DR. SUJATA LATHER

Assistant Professor Dept. Of Law Choudhary Ranbir Singh University Jind, Haryana India

Abstract

The Government of India Act, 1935 stands as a landmark in the constitutional evolution of India, representing the most comprehensive framework of governance introduced during the colonial period. This paper analytically examines the structure, features, and underlying objectives of the Act, with particular emphasis on its enduring influence on modern Indian constitutional law. The study explores key provisions such as provincial autonomy, the federal scheme, bicameralism, and the distribution of legislative powers, which later found reflection in the Constitution of India. The research further evaluates how the Act served both as an instrument of British administrative control and as a foundational blueprint for India's post-independence constitutional framework. While certain features, such as the federal structure and office of the Governor, were retained and adapted, others—like diarchy at the provincial level—were discarded due to their inefficacy. Through a critical analysis, the paper highlights the dual nature of the Act as both a colonial imposition and a stepping stone toward democratic governance. The study concludes that despite its limitations and colonial intent, the Government of India Act, 1935 significantly shaped the institutional and legal architecture of modern India. Its constitutional legacy continues to influence governance, federal relations, and administrative mechanisms, making it an essential subject of study in understanding the development of India's constitutional identity.

Keywords: - Constitutional, Federalism, Provincial Autonomy, Bicameral Legislature, Distribution, Diarchy

Introduction

The constitutional development of India is deeply rooted in its colonial past, with the Government of India Act, 1935 marking a significant turning point in this evolution. Enacted by the British Parliament, the Act was the most comprehensive and detailed constitutional framework introduced in pre-independence India. It sought to restructure governance by introducing elements of federalism, provincial autonomy, and administrative decentralization, thereby laying the groundwork for modern constitutional governance. The Act of 1935 emerged in response to growing political demands for self-governance and increasing nationalist movements across India. It aimed to balance British imperial interests with limited Indian participation in governance. Key features such as the division of powers between the Centre and Provinces, the establishment of bicameral legislatures in certain regions, and the introduction of responsible government at the provincial level represented a shift towards democratic principles. However, the federal scheme envisaged under the Act was never fully implemented, and significant powers continued to remain with the British authorities, particularly the Governor-General. Despite its colonial intent and inherent limitations, the influence of the Act on the Constitution of India is undeniable. Many structural aspects of the present Constitution, including federal distribution of legislative subjects, the role of Governors, and emergency provisions, draw heavily from the 1935 framework. At the same time, certain features such as diarchy at the provincial level were discarded due to their impracticality and inefficiency. This paper aims to provide an analytical study of the Government of India Act, 1935, focusing on its structure, key provisions, and its enduring constitutional legacy in modern India. By examining both its contributions and shortcomings, the study seeks to understand how a colonial statute became a foundational influence in shaping the constitutional identity of an independent nation.

Historical Background

The enactment of the Government of India Act, 1935 was the result of a long and gradual process of constitutional development in British India, shaped by political pressures, administrative challenges, and increasing demands for self-governance (Chandra et al., 2008, p. 289). It did not emerge in isolation but was preceded by a series of legislative and political developments that progressively expanded Indian participation in governance. The early phase of British constitutional reforms began with the Regulating Act of 1773 and subsequent enactments; however, significant developments occurred during the early twentieth century.

The Government of India Act, 1919 introduced the system of diarchy in the provinces, dividing subjects into “reserved” and “transferred” categories (Basu, 2018, p. 28). Although this reform marked the beginning of limited self-governance, it was widely criticized for its inefficiency and the continued dominance of British authorities (Jain, 2016, p. 38). Growing dissatisfaction with the 1919 Act led to the appointment of the Simon Commission in 1927 to review the existing constitutional framework. However, the Commission faced widespread opposition in India due to the absence of Indian representation (Chandra et al., 2008, p. 301). In response, Indian leaders formulated their own constitutional proposals, most notably the Nehru Report of 1928, which advocated dominion status and greater autonomy for India (Austin, 1999, p. 9). Further constitutional deliberations took place during the Round Table Conferences (1930–1932) held in London, where British officials and Indian representatives debated the future structure of governance. These discussions underscored the necessity for a comprehensive constitutional framework capable of addressing issues such as federalism, minority representation, and administrative efficiency (Jain, 2016, p. 40). Consequently, the British Parliament enacted the Government of India Act, 1935, which aimed to introduce provincial autonomy, establish an All-India Federation, and expand legislative powers while retaining ultimate authority in British hands (Basu, 2018, p. 34). Although the Act did not grant full independence, it represented the most advanced constitutional framework introduced in India prior to independence (Austin, 1999, p. 12).

Thus, the historical background of the Act reflects a gradual transition from centralized colonial control to limited self-governance, influenced by both British policy considerations and the persistent demands of the Indian nationalist movement (Chandra et al., 2008, p. 315).

Objectives of the Act

The Government of India Act, 1935 was enacted with multiple political and administrative objectives. While it appeared to introduce progressive reforms, its underlying aim was to maintain British control while responding to increasing demands for self-governance in India. One of the primary objectives of the Act was to **introduce provincial autonomy**. It sought to grant provinces greater independence by allowing elected representatives to form governments and administer provincial subjects without direct interference from the British executive. This was intended to create a limited form of responsible government at the provincial level. Another key objective was the **establishment of an All-India Federation**, which would include both British Indian provinces and princely states. The idea was to create a unified

political structure with a clear distribution of powers between the Centre and the units. However, this objective remained largely unfulfilled, as princely states did not join the federation. The Act also aimed at the **decentralization of powers**. By introducing a threefold division of legislative subjects—Federal, Provincial, and Concurrent Lists—it attempted to reduce the burden on the central government and promote administrative efficiency. This system later influenced the structure of the Constitution of India. At the same time, the Act was designed to **safeguard British interests**. Despite introducing reforms, significant powers were retained by the Governor-General and provincial Governors, including discretionary and emergency powers. This ensured that ultimate authority remained with the British government. Another important objective was to **expand Indian participation in governance**. The Act increased the size of legislatures and extended the franchise, allowing more Indians to participate in the political process. However, this participation was still limited and controlled. Finally, the Act aimed to **create a stable administrative framework** that could manage India's vast and diverse population more effectively while delaying full independence. It attempted to balance nationalist demands with imperial priorities, though often unsuccessfully. In essence, the objectives of the Act reflected a dual approach—introducing limited democratic reforms while preserving colonial authority.

Features of the Government of India Act, 1935

The Government of India Act, 1935 was the most comprehensive constitutional framework introduced during British rule in India. It incorporated several significant features that later influenced the Constitution of India (Basu, 2018, p. 36).

Federal Structure

The Act proposed the establishment of an All-India Federation consisting of British Indian provinces and princely states. It aimed to divide powers between the Centre and constituent units. However, the federation never came into force due to the non-participation of princely states (Jain, 2016, p. 60).

Provincial Autonomy

One of the most significant features was the introduction of provincial autonomy. The system of diarchy introduced under the Government of India Act, 1919 was abolished at the provincial level, and provinces were granted authority to govern their subjects through elected representatives (Basu, 2018, p. 35).

Division of Powers

The Act introduced a threefold distribution of legislative powers into:

- Federal List
- Provincial List
- Concurrent List

This classification helped define the jurisdiction of different levels of government and was later adopted in the Constitution of India (Austin, 1999, p. 20).

Diarchy at the Centre

While diarchy was abolished in the provinces, it was introduced at the central level. Subjects were divided into reserved and transferred categories, with the Governor-General exercising control over reserved subjects (Jain, 2016, p. 62).

Bicameral Legislature

The Act provided for a bicameral legislature at the Centre, consisting of the Council of States and the Federal Assembly. Some provinces were also granted bicameral legislatures, thereby promoting legislative debate and efficiency (Jain, 2016, p. 63).

Powers of Governor and Governor-General

The Governors and the Governor-General were vested with extensive powers, including discretionary and emergency powers, as well as the authority to override elected governments. These provisions ensured the continuation of British control over administration (Basu, 2018, p. 38).

Federal Court

The Act established a Federal Court to adjudicate disputes between provinces and the Centre and to interpret constitutional provisions. This institution later served as a precursor to the Supreme Court of India (Basu, 2018, p. 41).

Extension of Franchise

The Act expanded the electoral base by increasing the number of eligible voters. However, the right to vote remained limited, being subject to qualifications such as property ownership, education, and income (Chandra et al., 2008, p. 310).

Separate Electorates

The Act continued and further expanded the system of separate electorates for different communities. This provision later became a subject of significant criticism for reinforcing communal divisions (Chandra et al., 2008, p. 315).

Emergency Provisions

The Governor-General was empowered to declare emergencies and assume control over administration. These provisions ensured that ultimate authority remained with the British

government (Austin, 1999, p. 27).

These features reflect a combination of progressive constitutional reforms and mechanisms of colonial control. While the Act introduced elements such as federalism and provincial autonomy, it simultaneously retained strong central authority in the hands of British officials, thereby highlighting its dual nature (Basu, 2018, p. 39)

Critical Analysis of the Act

The Government of India Act, 1935 has been widely regarded as both a progressive constitutional development and a tool of colonial control. A critical evaluation of the Act reveals its strengths as well as its inherent limitations.

Strengths of the Act

One of the major strengths of the Act was that it provided a **comprehensive constitutional framework** for governance in India. It was the longest Act passed by the British Parliament at the time and addressed various administrative, legislative, and federal aspects in detail.

Another significant contribution was the introduction of **provincial autonomy**, which allowed elected Indian representatives to form governments and exercise authority over provincial subjects. This marked an important step towards responsible government and democratic participation.

The Act also laid the foundation for **federalism** by proposing a division of powers between the Centre and the provinces. The introduction of Federal, Provincial, and Concurrent Lists later became a core feature of the Constitution of India.

Additionally, the establishment of a **Federal Court** strengthened the judicial system by providing a mechanism for resolving disputes and interpreting constitutional provisions. This was a precursor to the modern Supreme Court of India.

Weaknesses of the Act

Despite its progressive features, the Act suffered from several serious limitations. The most notable drawback was that it **failed to establish a truly responsible government at the Centre**. The Governor-General retained extensive powers, including discretionary and emergency powers, which undermined democratic governance.

The proposed **federal structure remained ineffective**, as it was never fully implemented due to the non-participation of princely states. This rendered one of the key objectives of the Act unsuccessful.

Another major criticism was the continuation and expansion of **separate electorates**, which

deepened communal divisions and hindered national unity. This policy has been viewed as a deliberate strategy of “divide and rule” by the British.

The Act also introduced **diarchy at the Centre**, which proved to be complex and impractical. The division of subjects into reserved and transferred categories created administrative confusion and inefficiency.

Furthermore, the Act **lacked a bill of fundamental rights**, leaving citizens without guaranteed protections against state actions. This was later rectified in the Indian Constitution.

Colonial Intent vs Democratic Appearance

A key aspect of the Act’s criticism lies in its dual nature. While it appeared to introduce democratic reforms, its primary objective was to **maintain British control over India**. The extensive powers granted to the Governor-General and Governors ensured that ultimate authority remained with the colonial administration.

Thus, the Act can be seen as a **compromise between rising nationalist demands and British imperial interests**, rather than a genuine step toward self-governance.

Overall Evaluation

In conclusion, the Government of India Act, 1935 was a significant yet flawed constitutional instrument. It introduced important structural reforms such as provincial autonomy and federal principles, but at the same time, it retained strong colonial control mechanisms. Its legacy lies not in its immediate success, but in its long-term influence on the development of India’s constitutional framework.

Constitutional Legacy in Modern India

The Government of India Act, 1935 has left a profound and lasting imprint on the constitutional framework of independent India. Although enacted during colonial rule, many of its structural and administrative features were adopted, modified, and incorporated into the Constitution of India. Its legacy can be clearly observed in several key aspects of modern governance.

Federal Structure

One of the most significant contributions of the Act was the introduction of a **federal system**. The present Indian Constitution adopts a similar framework, dividing powers between the Centre and the States. However, unlike the 1935 Act, India established a **fully functional and cooperative federal system**.

Distribution of Legislative Powers

The threefold classification of subjects into:

- Union List
- State List
- Concurrent List

is directly derived from the 1935 Act. This system continues to define the legislative competence of different levels of government in India.

Office of Governor

The position of the **Governor** in Indian states is largely based on the provisions of the 1935 Act. While the role has been constitutionalized and made more democratic, certain discretionary powers still reflect colonial influences.

Parliamentary System

The Act introduced elements of a **parliamentary form of government**, especially at the provincial level. This system was later fully adopted in independent India, where the executive is responsible to the legislature.

Bicameral Legislature

The concept of **bicameralism**, introduced in certain provinces under the Act, continues in India at both the Union level (Lok Sabha and Rajya Sabha) and in some states.

Federal Court and Judiciary

The establishment of a **Federal Court** under the Act laid the foundation for an independent judiciary. This institution eventually evolved into the Supreme Court of India, ensuring constitutional interpretation and protection of rights.

Emergency Provisions

The emergency powers granted to the Governor-General influenced the inclusion of **emergency provisions** in the Indian Constitution. However, these powers are now subject to constitutional safeguards and judicial review.

Public Service Commissions

The Act provided for the establishment of Public Service Commissions, a system that continues today in the form of UPSC and State Public Service Commissions.

Critical Perspective on Constitutional Legacy

While the Government of India Act, 1935 significantly influenced the constitutional structure of India, it is important to recognize that independent India transformed these colonial

provisions into a democratic and welfare-oriented framework (Austin, 1999, p. 50). The Constitution of India incorporated several structural features of the Act but reinterpreted them in light of democratic principles and popular sovereignty.

Notably, essential features such as Fundamental Rights, judicial independence, and universal adult franchise were newly introduced, marking a clear departure from the limited and controlled governance system under colonial rule (Basu, 2018, p. 82). These additions ensured the protection of individual liberties, strengthened the rule of law, and established a participatory political system.

Furthermore, while the 1935 Act emphasized administrative efficiency and imperial control, the Constitution of India prioritized social justice, equality, and welfare-oriented governance (Chandra et al., 2008, p. 412). This transformation reflects the shift from a colonial state to a sovereign democratic republic based on the will of the people.

In essence, the Government of India Act, 1935 functioned as a constitutional blueprint rather than a definitive model. Its legacy lies in providing the structural foundation upon which an independent and democratic constitutional order was constructed (Jain, 2016, p. 85).

Comparison with the Constitution of India

The Government of India Act, 1935 served as a structural foundation for the Constitution of India, but the latter transformed colonial provisions into a democratic framework. A comparative analysis highlights both continuity and change:

Key Differences and Similarities

Aspect	Government of India Act, 1935	Constitution of India, 1950
Nature of State	Colonial	Sovereign, Democratic Republic
Source of Authority	British Parliament	People of India
Federal Structure	Proposed (not fully implemented)	Fully functional
Fundamental Rights	Not provided	Guaranteed (Part III)
Executive Power	Vested in Governor-General	Vested in elected सरकार

Role of Governor	Powerful, discretionary	Constitutional head (limited discretion)
Judiciary	Limited independence	Independent judiciary
Franchise	Limited	Universal adult suffrage
Emergency Powers	Absolute (colonial control)	Constitutional safeguards

Analysis

While the 1935 Act provided the **basic administrative framework**, the Constitution ensured **democratic legitimacy, accountability, and rights protection**. The transformation reflects India's transition from colonial rule to popular sovereignty.

Relevance in Contemporary India

Despite being a colonial statute, the Government of India Act, 1935 continues to remain relevant in modern India due to its institutional legacy.

Federal Structure and Centre-State Relations

The present system of Centre-State relations is largely based on the framework introduced by the Act. Issues such as legislative competence and administrative coordination still reflect its influence.

Administrative Framework

Key institutions like:

- Office of Governor
- Public Service Commissions
- Legislative structures

have their roots in the 1935 Act.

Continuing Debates

Modern debates regarding:

- Governor's discretionary powers
- Central dominance in federalism
- Emergency provisions

often trace their origin to colonial structures introduced by the Act.

Legal and Academic Importance

The Act remains an essential subject in legal studies and judicial interpretation, helping scholars and courts understand the evolution of constitutional principles.

Suggestions and Reforms

Although India has moved far beyond the colonial framework, certain aspects influenced by the Government of India Act, 1935 still require reform.

Strengthening Federalism

There is a need to promote **cooperative federalism** by ensuring better coordination and balance of power between the Centre and States.

Limiting Discretionary Powers of Governors

The discretionary powers of Governors should be clearly defined to prevent misuse and political interference.

Reforming Emergency Provisions

Although safeguarded, emergency provisions should be used cautiously, with stronger checks and balances.

Enhancing Democratic Accountability

Institutions inherited from colonial governance must be continuously reformed to ensure transparency and accountability.

Modernizing Administrative Structures

Administrative systems rooted in colonial practices should be updated to meet contemporary governance needs.

The Government of India Act, 1935 continues to influence India's constitutional and administrative framework. However, the Constitution of India has successfully transformed these colonial foundations into a democratic system. Ongoing reforms are essential to align inherited structures with modern constitutional values and governance requirements.

References

- Austin, G. (1999). *The Indian Constitution: Cornerstone of a nation*. Oxford University Press.
- Basu, D. D. (2018). *Introduction to the Constitution of India* (25th ed.). LexisNexis.
- Chandra, B., Mukherjee, M., Mukherjee, A., Panikkar, K. N., & Mahajan, S. (2008). *India's struggle for independence*. Penguin Books.
- Government of India Act, 1935. (1935). UK Parliament.
- Jain, M. P. (2016). *Indian constitutional law* (8th ed.). LexisNexis.
- Kashyap, S. C. (2019). *Our Constitution: An introduction to India's Constitution and constitutional law*. National Book Trust.
- Seervai, H. M. (1996). *Constitutional law of India* (4th ed.). Universal Law Publishing.

Sharma, B. K. (2014). *Introduction to the Constitution of India* (6th ed.). Prentice Hall.

Austin, G. (2003). *Working a democratic constitution: The Indian experience*. Oxford University Press.

Dhavan, R. (2007). *The Supreme Court of India: A socio-legal critique*. Tripathi.

