

20. Constitutional, Administrative and Judicial Development During the British Rule

Civil Services in India

Acts/ Commissions	Regulations/ Recommendations
The charter act of 1853	<ul style="list-style-type: none"> This act ended patronage system and open competitive exams were initiated. However, Indians were barred from high post. The belief that only the English could establish administrative services serving British interests.
Indian Civil Service Act 1861.	<ul style="list-style-type: none"> This Act reserved certain offices for covenanted civil servants but the examination was held in England in English language, based on classical learning of Greek and Latin. The age limit was gradually reduced from 23(1859) to 19(1878) In 1863, Satyendranath Nath Tagore became the first Indian to qualify for the Indian Civil Service.
Statutory Civil Service	<ul style="list-style-type: none"> Lytton introduced the Statutory Civil Service consisting of one-sixth of covenanted posts to be filled by Indians of high families through nominations by local governments subject to approval by the secretary of State and the viceroy. Age reduced from 21 to 19 Again, lord Rippon increased to 21
The Indian National Congress 1885	<ul style="list-style-type: none"> Lowering of age limit for recruitment. Holding the examination simultaneously in India and Britain.
Aitchison Committee on Public Services (1886)	<p>Set up by Dufferin, recommended,</p> <ul style="list-style-type: none"> Dropping of the terms 'covenanted' and 'uncovenanted'; Classification of the civil service into <ol style="list-style-type: none"> Imperial Indian Civil Service (examination in England). Provincial Civil Service (examination in India) Subordinate Civil Service (examination in India) raising the age limit to 23.
Islington Commission	<ul style="list-style-type: none"> Recommended for simultaneous examination.
Montford Reforms 1919	<ul style="list-style-type: none"> Provided for simultaneous examination, and for responsible government to be formed need more Indians in administration, and 1st examination in the year 1922 at Allahabad. Central public service commission was redesigned to All India Service. Recommended holding of simultaneous examination in India and England. Recommended that one-third of recruitments be made in India itself—to be raised annually by 1.5 per cent.
Lee Commission (1924)	<ul style="list-style-type: none"> The secretary of state should continue to recruit. Direct recruitment to ICS on basis of 50:50 parity between the Europeans

	and the Indians be reached in 15 years.
	<ul style="list-style-type: none"> Public Service Commission be immediately established (as laid down in the Government of India Act, 1919).
Government of India Act, 1935	<ul style="list-style-type: none"> The 1935 Act recommended the establishment of a Federal Public Service Commission and Provincial Public Service Commission under their spheres.

Evolution of Civil Services of India

- Initially civil service system in India introduced by East India Company, in order to maintain **commercial affairs** of company.
- Later the machinery got transferred to handle administrative matters.
- Warren Hastings separated Administrative and Commercial Functions.
- Up to 1853, the Directors of the British East India Company made appointments of covenanted civil servants by nominations. **This nomination system was abolished in 1861 by the Parliament in England** and it was decided that the induction would be through competitive examinations of all British subjects, without distinction of race.

Cornwallis' Role:

- The first to bring into existence and organize the civil services, raising the civil servants' salary, strict enforcement of rules against private trade, debarring civil servants from taking presents, bribes etc.,
- Enforcing promotions through seniority.

Wellesley's Role:

- Set up the Fort William College for training of new recruits.
- In 1806 Wellesley's college closed and instead the East India College was set up at **Haileybury in England** to impart two years' training to the recruits.
- 1830 Thomas Munro, concentrated all powers to District Collector in the province of Madras and this system expanded to all over India.
- Charter Act 1833 civil service opened to Indians** but was never really implemented.
- William Bentick introduced the subordinate civil service in India.

Evolution of Police System of India

- During Mughal rule **faujdar** helped in maintaining law and order and **amils** were to collect revenue.
- During Dual rule in Bengal and Orissa, **zamindar** were in charge of law and order.
- 1771 Warren Hastings restored the institution of **faujdar** and in 1775 **faujdar** were established.
- 1791 Cornwallis organised police system, by modernizing old Indian system **thane** (circles), **daroga** (dist).
- In 1808, Mayo appointed SP for each district, to handle law and order.
- Bentick, 1828-35 abolished SP and placed it under district collector or magistrate, it resulted in over burdening the collector.

Recommendation of Police Commission (1860):

- A system of **civil constabulary** - maintain the village set-up.
- Inspectors general as the head in province and SP as head of district.
- Indian police act of 1861**, presented guideline for police set-up in the provinces.
- 1902 the police commission recommended the establishment of CID in provinces and a central intelligence bureau at Centre.

Military under British

Military was backbone of company rule in India. Prior 1857 revolt there were two separate set of military force,

- The Queen's Army - serving troop on duty in India.
- Company's troop - it is mix of Indian and European but officer were Britishers.

After 1857 – systematic rearrangement of army to prevent reoccurrence of revolt.

- In order to prevent the revolt, Indian army were used to defend Indian Territory from foreign-like Russian German etc and for expansion of territory in Asia and Africa, while British army to occupy them.
- Gradually European to Indian ratio was increased, and Indians were discriminated in key geographical location, key position and with respect to distribution of rifles.
- The Indian Sandhurst committee in 1926 was visualizing 50% Indianised officer cadre by 1952.
- An ideology of martial races and non-martial races evolved by British, the ostensible reason was that a 'martial race' was typically brave and well-built for fighting, while the 'non-martial races' were those whom the British believed to be unfit for battle because of their sedentary lifestyles.

Development of Judiciary in Central India

- Neither in Mughal period or in ancient period did India have a proper procedure of judicial system.
- Hindu litigations were held by caste elder or village headman or zamindar, similar case in Muslims-either head of towns or village etc.
- Only Traces of judiciary is **Mayor's Court**. Until the founding of the Supreme **Court** of Judicature at Fort William in 1774, the **Mayor's Courts** in Madras, Calcutta and Bombay were the East India Company's highest **courts** in British India.

Warren Hasting (1772-1785):

- District diwani adalats placed under collectors, Hindu law to Hindu and Muslim law to Muslim. Appeal to sadar diwani adalats.
- District fazdari adalats on criminal case on Indian officer assisted by *quazis* and *muftis*.
- Under regulating act 1773, Supreme Court setup, at Calcutta, to try all British subject.

Reform under Cornwallis (1786-1793)

- Diwan Faujdari adalat was abolished instead court of circuit were established at Calcutta, Deccan murshibab, Patna had European judges. Sardar – Nizamat adalat was shifted to Calcutta and put under governor general.
- District diwan adalat in now district court or zila court.

Cornwallis code:

1. Separation of revenue and justice.
2. European subject bought under court.
3. Government official areanswerable to court.

Reform under William Bentick (1828-1833):

- Circuit court were abolished and transferred to collector.
- Sadar diwani adalat andsardar nizamat adalat were setup at Allahabad.

1883 Law Commission was set up under Macaulay for codification of Indian Law.

1. Civil procedure (1859)
2. Criminal procedure (1861)
3. Indian penal code

Later developments:

- 1860 - No Indian origin judge could try European.
- 1865- Supreme court and the sadar adalats were merged into three high court at Calcutta, Bombay and Madras.
- 1935 - GOI act 1935 set up federal court (1937) to settle disputes between governments and could hear limited appeal.
- **Major Change in Administration Structure after 1857:**
 - British learnt a lesson from the revolt of 1857, now they realised the alienation of masses from administration had worst impact, so in order to learn local value and tradition, involvement of Indian became necessity.
 - Second half of 19th century spread of industrialisation took place USA and JAPAN emerged has new competitors to British, now the act through competition or raw material and etc.

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- They wanted to extract as many resources as possible and spread the power at global level.

Administration:

Central Government:

- **Act for better government of India 1858-** Transferred power from East India company to crown.
- Secretary of state created for Indian administration replacing erstwhile COD and BOC ultimate power remained with parliament.
- Concentration of main authority in the hands of secretary of state and viceroy to be subordinate to him.

Provincial Government:

- Indian council act 1861 returned legislative power to council which was taken over by earlier act by 1833.
- More financial decentralization to curb down expenditure and increase revenue.
- Certain services like police, jails, education, medical services were asked to administer by the provinces.
- 1877 Lord Lytton transferred certain other subject to provinces.
- 1882: All sources of revenue were divided into three-general, provincial, and those to be divided between the centre and the provinces.

Local Bodies

Factors that led to formation of local bodies:

- Financial difficulties faced by the administration
- Due to increased contact with Europe, it became necessary to transplant the advancement in civic amenities in India.
- Due to the pressure of nationalist
- To check the increased politicization among Indians
- The utilization of local taxes for local welfare could be used to counter any public criticism of

British reluctance to draw upon an already overburdened treasury or to tax the rich upper class.

Stages in Evolution of Local Government:

1864 and 1868

- Local bodies were nominated by district collector to increase the tax collection.

Mayo's resolution of 1870:

- Local interest, supervision and care are necessary for success in management of funds and it should be devoted to education, sanitation, medical relief and local public work.
- Provincial government passed municipal acts.
- Emphasised on financial decentralisation.

Rippon resolution of 1882:

- Lord Rippon father of local self-government in India.
- In rural areas, District Boards and Local Boards known as "tahsil or "taluk boards" were established. Non-official to be majority in the body and chaired official sanction required in certain cases.
- The members were to be elected by rent-payers rather than nominated by the Government.
- In towns, the powers and responsibilities of the Municipalities were enlarged. The members were to be partly elected and partly nominated.
- The chairman was to be a non-official member. The nominated members should not be more than one third of the total strength.
- Government at any time may suspend these bodies.

Royal commission on decentralisation (1908):

To improve the financial resources of local bodies following recommendation,

1. It emphasised that village panchayats should be entrusted with more powers like judicial jurisdiction. Panchayat to be given adequate source of income.
 2. It emphasised the importance of sub -district boards in every taluka or tehsil.
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3. Withdrawal of existing restriction on their power of taxation.
 4. Municipalities might undertake responsibility for primary education and vernacular schools.

Under Dyarchy:

- Local self-government made transferred subject in act 1919.
- Simon commission pointed out (May 1930) lack of progress in village panchayat except in UP

The Government of India Act 1935 and

After:

- Provincial autonomy.
 - Demarcation of taxation between provincial and local finance.
 - New restrictions were placed on power of local self-government on issues such as levy of taxes, callings, professions and municipal property.
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