

Representative Government by Phases as Colonial Legacy: A Case Study of British India (1861-1935)

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Abstract

Representative governments, particularly in the post-colonial independent states, are deemed as outcomes of colonial rule and popular demand in the respective areas. Representative government in India, whether an ascription by the British colonial rulers or a gradual evolution in course of time through introduction of different Acts by the then British rulers and acceptance or rejection by the political elites of British India, is an intensive subject of scrutiny. It is because India, in practice of representative democracy, is considered as the largest one in the world considering its population size. Since institutions determine resource allocation and human behavior in the society, representative government is the mainstay of establishing an equitable and just system for a highly diversified society like India. As the highest authoritative body of the country, the government of India being a representative institution plays the pivotal role in ensuring stability of the country. So, the inclusion of local people in the government structure, particularly in the legislative bodies with more popular participation had been made in course of time because of people's demand. Representative government here has evolved through legislative measures by the colonial elites.

Key Words: Representative Government, Government of India Act, Colonial legacy, Evolution, India

Introduction

The practice of representative parliamentary government all over the world is not a new phenomenon. India, being the largest parliamentary democracy

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of the world in terms of population, requires a special attention in its practice of representative government in the new wave of debate whether it had been evolving since British rule or ascribed by the then elites. Since a system is the determining factor of resource allocation and it is administered by/through institutions, particularly those which are representative in nature; parliament in the parliamentary representative governmental system is in the fulcrum of concentration. As an institution for representation of diverse communities in India, parliament had been playing a crucial role in protecting the rights of all diversified groups and communities since British rule in India. Therefore, Parliament, being taken as the key institution of representation along with other organs of the government like the Executive, has been in the focus to be dealt with.

In India, representative government is badly needed due to its diversified communities. Without representation in the government especially in the legislative process no community can ensure its due share in allocation of resources. As British government had taken over power from the British East India Company (BEIC) in 1858 immediately after the *Sepoy* Rebellion in 1857 (Bakshi, 1985), it started directly ruling in British India. That rebellion had followed hundreds of movements due to misrule of the BEIC in British India. Since then, having gained experience from the earlier movements taken place during BEIC rule (1757-1857), British Government started involving Indian citizens in the administrative as well as in the political structure through formal mechanism. Inclusion of the locals in the legislative bodies set off the practice of representative government which later on evolved as parliamentary representative government as popular demand mounted on this issue. The Acts issued by the British government since then paved the way of representative government in India. Analyzing the major Acts issued from 1858 to 1935 would be the key of this paper as through them representative elements or mechanism evolved from tender stage towards maturity.

This paper is divided into five sections with some subsections. The first section deals with the research objectives and methodology of the paper. The second section explains the concept of representative government. The third section deals with the background of the inception of parliamentary representative government in India, i.e. in what circumstances British Government took over the charge of ruling India from British East India Company and explains the situation of introducing different Acts along with the changes made through these Acts. It has some subsections where individual Government of India Acts are discussed. The fourth section of the paper deals with the analyses of the Acts— how these Acts accommodated the Indians in the

legislative process making representation possible, their methods of selection or election and nomination. A trend can be observed here as well regarding the strengthening of Parliament as a Legislative institution along with more participation of the Indians in the election process. Finally, a conclusion has been drawn answering why and how the representative government in India had been evolved.

Research Objectives and Methodology

This paper attempts to find out the answers to questions, like: Is parliamentary representative government in India an ascription? Has it been evolving since the British Government's takeover of the charge of India directly from the British East India Company in 1858? How far has a representative Government during British rule been evolved in British India till 1935? This paper focuses upon the evolution of Indian government as a representative institution. As methodology, historical analysis has been used to find out whether parliamentary form of government in India is an ascription or it is the outcome of gradual evolution. Objective analysis of the historical facts is the mainstay of the current research work. Historical evidences from primary and secondary sources have been used for supporting the arguments. In some cases, contradictory information has been cross-checked for validation of the information. An eminent historian and a reputed political scientist had also been consulted for keeping the research work on track.

Representative Government: A Conceptual Framework

Representation in the government of diverse community is the first step of ensuring due right of the respective communities. Without representation just distribution can only be a lip service, not a pragmatic one. Therefore, representative government has been an intuition since the inception of limiting the monarchic power. Even in modern democracies, without due presentation whatever majority in terms of number one community may be, that community's voice is not heard or not paid required attention in resource allocation as well. Representation refers to availability of representatives of any group or entity in the decision making body. So, representative government is a compilation of legitimate authority from all existing entities. It is here to be noted that representation does not necessarily denote participation. It is only the first step of ensuring participation (Manin, 1997). John Locke, in his *Second Treatise on Government* (1690), put emphasis on consent to the government instead of direct consent to the laws (Locke, 1990). Due to large size of geography or population or both, it is not possible to ensure getting everyone's consent on any

particular issue. So, representatives from all corners and communities may be the only solution in legitimizing a truest people's government. There are some invariable principles of representative government making it most relevant for a diverse society like British India. They are—a) those who govern are appointed by election at regular intervals; b) the decision making of those who govern retains a degree of independence from the wishes of the electorates; c) those who are governed may give expression to their opinions and political wishes without these being subject to the control of those who govern; d) public decisions undergo the trial of debate (Manin, 1997). Representative government, whether in truest sense of the term or not, portrays as kind of belongingness of all existing groups or communities in the given area. Thus, it also decreases a growing possibility of more and more movements against the status quo. All the Acts introduced in course of time to govern India had been, therefore, either an outcome of popular demand or an instrument of the ruling British elites to pacify the agitating mass showing 'their very own government'.

The Indian Council Act 1861: A Step towards Representative Democracy

It has been earlier mentioned that one hundred years of misrule by the BEIC caused hundreds of movements during that time. One of the major realizations by the British government, after *Sepoy Rebellion* in 1857, was that there required engagement of the Indians in the administrative structure of British India so as not to face any more armed rebellion. Consequently, the British government directly took over the charge of British India at its hand from BEIC in 1858. Moreover, lengthy faulty law-making system of India at that time did not have any representation from the Indians which subsequently led to enactment of laws save empathy resulting in resentment amongst the citizens. In addition to that, despite India being a heterogeneous society, BEIC attempted to maintain uniformity in law making by centralizing the legislative powers. In spite of having one representative from each presidency, the central legislature was unable to promulgate suitable laws in the context of diversified nature and demand of the presidencies. Therefore, a decentralization of legislative power had been inevitable. More interestingly, the Legislative Council of the Governor General sometimes started to embarrass the Home government by refusing to comply with demand of the government.

In the very beginning of the act at the preamble, it has been declared that 'whereas it is expedient that the provisions of the former Acts of Parliament respecting the constitution and functions of the Council of the Governor-General of India should be consolidated and in certain respects amended and

that power should be given to the Governors-in-Council of the Presidencies of Fort Saint George and Bombay to make laws and regulation for the government of the said Presidencies, and that provision should be made for constituting the like authority in other parts of Her Majesty's Indian Dominions'—that is how for the first time in British India representative parliamentary government got its first sapling sown (Mahajan, 2010). A formal law making body has been introduced so as to work for the then British India. Moreover, the propagandist of this Act, Lord Canning had a proposition to hold the meetings of this Council in different parts of India so that they could involve 'one native', as it would not be easy for them to come to Kolkata (Philips, Singh & Pandey, 1962). It was to be done keeping in mind the necessity of engaging someone having deep understanding and knowledge about the local issues and priorities. An attempt of effective legislation through a formal legislative body had been the target of this Act.

With a view to involving the locals, the provision of including the fifth member to the Executive Council of the Viceroy has been introduced. This fifth member was expected to be a legal professional, not necessarily to be a technical lawyer; rather a jurist was in preference (Narain, 1972).

One very significant feature of the Act of 1861 is— it empowered the Governor General to disseminate his power on particular issues or business upon the individual members of the Executive Council that indicates the present day's portfolio system in the parliaments (Roy, 2002). Having their own portfolios, they were entitled to take care of the issues related to them save most important matters. And those were to be discussed in the meeting of the Executive Council. It is also needed to be kept in mind that as Governor General had the authority to legislate, that is promulgating law and rules and regulations; he could nominate a member to preside over the Council meetings in his absence (Cowell, 1884).

The expansion of the Executive Council of the Governor General had been another important step towards representative government. The Council was to be strengthened by inclusion of minimum six to maximum twelve members while legislating. Among them at least half of the members were supposed to be non-officials for holding the office for two years. Very interestingly, their businesses were limited to legislation merely (Coen, 1971). To quote the power of this body, it was basically empowered "to make laws and regulations for all persons whether British or native, foreigners or others, and for all places and things whatever within the said territories, for all servants of the Government of India within the dominions of Princes and states in alliance with Her Majesty" (Banerjee, 1973). Yet, there were certain limitations on the legislative

powers. Previously, the Governor General had the authority to promulgate law concerning only public debts, public revenues, Indian religious rites, military discipline and policy towards the Indian states. Any law that trespasses the authority of the Home Government or violates the provisions of certain acts made by the Parliament shall be void. Veto power had been vested upon the Governor General. Moreover, he had the power to issue ordinances in case any emergency arises. These would be deemed as law and be effective for six months until and unless they are replaced or repealed by any other ordinance or law. Very importantly, all acts were made essential to be endorsed by the Governor General (Ewing, 1982). The Crown and the British Parliament only had the authority or right to disallow any law.

The provincial Government of Bombay can be said to have set an example in the totality of the federal government of India under British crown. Yet, hardly was there any distinction between central and provincial subjects. Subjects, like public debt, currency, financial matters, religion, copyrights and patents, post office related issues were under the jurisdiction of the Central Government. Surprisingly, the Governor General had the authority of creating new provinces, appointing Lieutenant-Governors, demarcating the area of any presidency, province or territory (Philips, Singh & Pandey, 1962). So, there arose the necessity of meeting the demand of circumstances which resulted in another Act (1892).

The Indian Council Act 1892: An Upgradation towards Representation

Since the enactment of the Indian Council Act of 1861, the wave of movements and agitations, which were aimed to be mitigated through a formal channel, continued to be a threat to the incumbent British authority in India. Mostly, the pulse of the people could neither be read nor attempted to be realized. The nominal tiny representation of non-official members in the legislative body was quite negligible, even though they could not be claimed to understand the problems and demands of the people. Moreover, during the second half of the 19th century nationalism started to develop across India. The establishment of universities in Calcutta, Madras and Bombay caused an upheaval in education and awareness amongst the Indians. At the same time, learning English allowed a more proximity among the educated class which pushed an outburst against repressive policy of the British Government. The Vernacular Press Act (1878), the Indian Arms Act (1878), unjust abolition of 5% cotton duties to serve the interest of the manufacturers of Lancashire sacrificing the interests of the Indian merchants, the Ilbert Bill controversy—all of them ameliorated to the culmination of agitation (Mahajan, 2010). In these circumstances, to pacify the grievance of the Indians, Indian National Congress was formed in 1885

(Misra, 1978) as a formal platform of placing demands of the constituencies. Following the growing demand, Congress, in its very first session passed the resolution as follows:

This Congress considers the reform and expansion of the Supreme and existing Local Legislative Councils by the admission of a considerable proportion of elected members (and the creation of similar Councils for North-Western Provinces and Oudh and also for the Punjab) essential; and holds that all budgets should be referred to these Councils for consideration, their members being moreover empowered to interrelate the Executive in regard to all branches of administration. (Keith, 2017, p. 159).

Though in the initial stage, the British Government let this organization grow, soon after that a frontal attack was visible when Lord Dufferin mentioned it as a mere representation of 'microscopic minority' (Morris-Jones, 1967). Ignoring the significance of Congress's popularity and representation, he undermined the demands of Congress and with an unequivocal voice declared that he would not let establish a parliamentary system here following the British Parliamentary government. This gives the backdrop of introduction of the Indian Council Act of 1892 (Philips, Singh & Pandey, 1962).

The Act (1892) basically focused upon the composition, powers and functions of the Legislative Councils in India. The Act, with regard to the composition of the Central Legislature, approved that the number of 'additional' members shall be from minimum ten to maximum sixteen with prior consent of the Secretary of State in Council. Very interestingly, the nomination of the additional member was to be made under the regulations made by the Governor-General (Grover & Grover, 1998).

The Provincial Legislatures were also entitled with some 'additional' members. From a minimum of eight to a maximum of twenty members were allowed to be in the Councils of Madras and Bombay while twenty was fixed for Bengal and fifteen was the exact number for North-Western Province and Oudh. The most important point to be noted here is two-fifths of the additional members were made compulsory to be non-official (Grover, 1967).

The power, or better be said right, of the Legislature had also increased to a limited extent. Despite not being able to propose on budgetary issues, the members of the Council could express their views on financial matters. In this regard, Lord Curzon may be quoted here:

It is not contemplated to vote the budget in India item by item in the manners which we do it in this House. But it is proposed to give opportunities to the member of the Councils to indulge in a full, free and fair criticism of the financial policy of the Government (Keith, 2017, p. 193).

Another right was that, after giving a six days' notice, they were allowed to put questions within certain limits to the Government on issues of public interest.

Here comes one very significant aspect of popular representation due to pressure created by Indian National Congress, though to a very limited extent, that if it pleases the Governor-General, he can arrange an election for the Government nominated candidates to be elected as member of the Council. In addition to that the Central Legislature had to have five non-official members side by side with official members who were to be elected one each by non-official members of the four Provincial Legislatures of Madras, Bombay, Bengal and North-Western Provinces and the fifth member were to be elected by the Calcutta Chamber of Commerce. The rest five non-official members were nominated by the Governor-General (Grover, 1967). But he would receive recommendations from Municipalities, District Boards, and the Chambers of Commerce in the cases of Provincial Legislature. The clause in this connection as per this Act says:

It will be possible for the Governor General to make arrangements by which certain persons may be presented to him, having been chosen by election, if the Governor-General should find that such a system can properly be established. (Mukherji, 1918, p. 79).

Therefore, this Act (1892) followed almost the same fate like the previous (Act of 1861) in terms of the reaction by the Indians. Popular demand by the natives to be inside decision making had always been there to push the Crown's government for issuing another Act meeting the claims of the Indians. That resulted in the introduction of the Indian Council Act of 1909.

The Indian Council Act 1909: The Morley-Minto Reforms towards Representative Government

The growing resentment among the Indians against the systematic repression, devaluation, subjugation and humiliation had been capitalized by leaders like R C Dutt, Dadabhai Naoroji and others for greater political rights of the Indians (Washbrook, 1975). The devaluation of the indigenous products at the expense of promoting British goods, repressive policies that grew bitterness among the disenchanting intelligentsia, humiliation of overseas Indians particularly in

South Africa for being 'enslaved race', attempt of cutting down the growth of Bengali nationalism (Partition of Bengal in 1905) (Edwardes, 1965)—all of them ameliorated to add fuel to the movements against British rule in India (Tinker, 1997). Very interestingly, when intellectual support was growing against alien rule, the authority tried to tighten control over the universities which ultimately backfired and resulted in the autonomy of the Universities (Gilmour, 2019). The urge among the Indians to get them free of the clutch of the alien rulers was inspired by another international incident of defeating the 'Occidental giant' Russia by the 'Oriental dwarf' Japan in 1904-05 (Grover & Grover, 1998). This led to split in the Indian National Congress—the Moderates and the Extremists, the later however was responsible for a breakout of extremism all over India calling for the struggle for independence. The popular '*Swadeshi Movement*' had two main strategies—one boycotting the British goods, accessories, titles and honors and even Government Services; and the other was political assassination (Johnson, 1973). It is to be noted here that while Indian National Congress was gaining much popularity and leading the '*Swadeshi Movement*', the Muslims kept themselves indifferent in this regard because of the policy of non-engagement by the then Muslim leaders like Sir Syed Ahmed Khan due to the lagged-behind state of the community (McLane, 1965). In the meantime, Muslim League was formed in Dhaka in 1906 (Nehru, 2008) with a view to placing the demands of the Muslim community to get its due share. Thus, the British Government got the chance to back the moderate Congress leaders and the Muslims to keep its authority intact of India with some declaration of political advancement. Lord Morley and Lord Minto came to a consensus on this issue of expanding political rights of the Indians which later on was passed as the Indian Councils Act of 1909 or popularly known as the Morley-Minto Reforms (Coupland, 1943).

As anticipated, the powers and functions of the legislatures were extended side by side with the expansion of its size. So, more representation of the Indians in the British-Indian government was ensured through the Act of 1909.

Changes in the Composition of Central Legislature

The number of 'additional' members was increased to the highest sixty. So, the number of the members of the Legislature reached to sixty nine, out of that 32 were made non-officials and the rest 37 officials. Among the official members, nine of them were ex-officio members—the Governor-General, the Executive Councilors who were seven in number basically known as ordinary members and one extra-ordinary member while the rest twenty eight official members were nominated by the Governor-General (Rudra, 1940). Among the thirty two non-officials, five were nominated by the Governor-General and the rest twenty

seven were elected members. The authority strategically avoided territorial representation saying India not yet suitable for that. Instead, they preferred representation by classes and interests. However, thirteen out of twenty seven elected representatives were from the General Electorates amongst whom total eight taking two from each of the legislatures of Bombay, Madras, Bengal and United Provinces and the rest five non-official members were from the legislatures of Central Provinces, Assam, Bihar and Orissa, the Panjab and Burma (currently Myanmar) one each (Das, 2017). Among the remaining fourteen, twelve were supposed to come from Class Electorates—six of them from the Landholders' constituencies in the six Provinces of Bombay, Madras, Bengal, Bihar and Orissa, the United Provinces and the Central Provinces one each while six were supposed to come from Muslim Constituencies—Madras, Bombay, United Provinces, and Bihar and Orissa one each and two from Bengal. The rest two were from Special Electorates, one from the Bengal Chamber of Commerce and the other from Bombay Chamber of Commerce (Grover & Grover, 1998).

Changes in the Composition of Provincial Legislature

The size of the Legislative Councils of the provinces also got enlarged through the Act of 1909. The number of members of Legislatures of different provinces is as follows:

Table 01: Size of the Provincial Legislature

Name of the Provinces	Number of Members of the Legislatures
Burma	16
Eastern Bengal and Assam	41
Bengal	52
Madras	47
Bombay	47
United Provinces	47
Panjab	25

[Prepared by authors drawn from (Mukherji, 1918)]

This Act provided a provision for non-official members' majority in the Legislature, though it does not necessarily mean to have majority of the

elected members. Even, in some cases elected members were to be nominated by the Governor. Madras may be said to be a glaring example of such a mechanism of controlling Legislature. Out of 47 members in the Legislature, 21 were officials and 26 were non-officials which apparently gives a picture of majority of the non-official members. But the real story is out of these 26 non-official members, 21 were elected and the rest five were nominated by the Governor making the Legislature under the clutch of the Governor's will (Smith, 1935). The other provincial Legislatures portray more or less the same scenario. An important point to be noted here is—the Executive Councils of Bombay, Madras and Bengal were enlarged to a 4 member committee. It also allowed the Government to form an Executive Council for constituting similar Councils as well (Keith, 2017).

Changes in the Powers and Functions of Legislative Councils

There was significant extension in terms of powers and functions of the Legislative Councils. Every member was entitled to ask supplementary questions, move resolutions and demand additional grants for the local governments in the Legislative Councils. Moreover, they could even propose for alteration of taxation and discuss on new loan. The financial issues were first sent to the Committee of the Council with the Finance Member as its Chair. This Council was constituted by official and non-official members with a ratio of fifty percent each (Gilbert, 1966). In addition to that, they got the right to discuss and vote on issues of public interest in the Legislature, though the President had the entitlement to disallow the whole part or any portion of the resolutions without assigning any reason. The Government had the obligation to accept these resolutions, if they are passed, even if they are issues of public interests or any financial matter. But the members had no right to discuss on the foreign relations of the Government of India and its relations with the Princes of India, matters under adjudication of a court of law, power of native states, expenditure on state railways, interest on debt etc. (Munshi, 1967). As a result, there grew a demand for empowering the legislatures more as well as increasing the number of Indians in the legislative process. It ushered in a new Act (Government of India Act 1919) for the Indians (Rothermund, 1967).

The Government of India Act 1919: Further advancement towards Representative Parliamentary Government

The expectations for ensuring political rights by the Morley-Minto Reforms in 1909 had not been fulfilled because of the unwillingness of the British authority. Moreover, the resentment created due to 'biased' share of representation to a

particular religious community and general distrust of the educated classes left a significant ground for restructuring the share of power (Appadorai, 1937). There were certain circumstances that disenchanted the Muslims as well leading to create a kind of distrust upon the Government. Annulment of Partition of Bengal in 1911 (Dash, 2017), terms and conditions for establishment of a Muslim University at Aligarh contributed to internal factors of resentment of the Muslims. In addition to that, the hostile stand of Britain towards Turkey in the Turco-Italian War of 1911-12, since Turkish *Khilafat* (Leadership of the Muslim Ummah) was viewed as 'the Sword of Islam', had been taken a Christian conspiracy against the Muslims by the Indian Muslims (Bamford, 1974). On the other hand, Lucknow Pact (1916) brought the Hindu and the Muslim Community to a proximate state against the Government. Portrayal of rightful demands as seditious act by the Government led to great discontentment as well. Under these circumstances, Montagu-Chelmsford Reforms of 1919 (in short it is called Montford) was declared to appease the situation (Keith, 2017).

Changes made through Montagu-Chelmsford Reforms of 1919

The preamble of the Government of India Act 1919 had been the guiding star of the Act setting the principles upon which the reforms were carried out in India. The key features, as per Sir Tej Bahadur Sapru, are as follows:

- British India to remain an integral part of the British Empire,
- Responsible Government in British India is the objective of the declared policy of the Parliament,
- Responsible Government is capable of progressive realization only,
- In order to achieve responsible Government, it is necessary to provide for two things: the increasing association of the Indians in every branch of administration and the gradual development of self-governing institutions (Grover & Grover, 1998).

On the basis of the above mentioned principles, the Government of India Act 1919 brought reformations on almost every aspect of the Government in India. The following are the most notable:

Reforms in 'Home' Government

The Secretary of State of India was then onwards would be paid by British Exchequer instead of paying by Indian revenues. Some functions were also snatched away to vest upon the High Commissioner for India who was to be appointed and paid by the Government of India. He, as the agent of Governor-General-in-Council, would be in charge of the Stores Department, the Indian

Students Department etc. The control of the Secretary of State was curtailed in the Provincial sphere in India as far as the Transferred Subjects were concerned. In the case of Center it remained as it was before (Banerjea, 1925).

Reforms in the Government of India

Despite having greater influence of the Indians in the center, responsible government could not be ensured. Out of eight members in the Executive Council of the Governor-General three were Indians who were provided with the Departments like, Law, Education, Labor, Health and Industries. The following table gives a better understanding on the ascription or awards of Departments.

Table 02: Assigned Entities in the Government of India

List of Importance	Criteria of Selection	Sectors/Departments	Responsible Entity
Central	National interest/ Connects more than one Province	Foreign affairs, Defence, Political Relations, Posts and Telegraphs, Public Debt, Communications, Civil and Criminal Law Procedure etc.	Governor-General in Council
Provincial	Internal affairs of the Provinces	Education, Labor, Public Health, Local Self-Government, Medical and Land Revenue Administration, Famine Relief, Law and Order, Agriculture etc.	Governor/ Provincial Government

[Prepared by the authors drawn from (Grover & Grover, 1998)]

A point to be noted here that any subject not specially transferred to the Provinces was a Central Subject.

Reforms in the Legislature

The most important feature of the Government of India Act of 1919 is the introduction of bicameral Legislature in the Center instead of the one House Imperial Council. The two Houses were namely—The Council of the State and the Central Legislative Assembly while the former would be deemed as Upper House and the later the Lower.

The following table would portray the composition of the Houses:

Table 03: Composition of the Legislature of the Government of India (1919)

Name of the House	Total Members	Way of Appointment	Detailed number of respective Members	
The Council of the State/ the Upper House	60	Number of Nominated Members by the Governor-General	26	20 Officials, 6 non-officials
		Number of Elected Members	34	20 by General Constituencies, 10 by Muslims, 3 by Europeans, 1 by Sikhs
The Central Legislative Assembly/ the Lower House	145	Number of Nominated Members	41	26 officials, 15 non-officials
		Number of Elected Members	104	52 by General Constituencies; 32 by Communal Constituencies, (30 by Muslims, 2 by Sikhs); 20 by Special Constituencies (7 by Landholders, 9 by Europeans, 4 by Indian Commercial community)

[Prepared by the authors drawn from (Keith, 2017)]

Though a member of the Council of the State held his seat for five years, it was renewed partially every year. The President of the House was to be nominated by the Viceroy. The members were addressed as 'Honorable'. There was no room for women to be its member (Banerjee, 1926). The Governor-General had the authority to address the House and could summon, prorogue or dissolve the House. The franchise in the House was extremely restricted. Those who could have paid income tax of Rs. 10,000 per annum or land revenue Rs. 750 per annum had the right to vote. Being a Senate member of a University or was having past experience in some Legislative Council in India or a title-holder

also had the entitlement of voting (Grover & Grover, 1998).

The tenure of the Legislative assembly was three years which could be extended by the Governor-General. For instance, the last Assembly elected in 1936 was dissolved after ten years. Franchise had also been much restricted in this case as well. Those who are qualified to vote are as follows:

An occupant or owner of a house of minimum annual rental value of Rs 180, or he would have paid municipal tax of Rs 50 per year, or he must be paying an income tax on an income of not less than Rs 2,000 per annum, or he must be paying land revenue of at least Rs 50 a year. Out of 24 crores not more than 17,364 persons possessed the qualification to be a voter of the Upper House and 909,874 persons had the qualification to be voters of the Legislative Assembly. Moreover, the distribution of the seats was inconsistent in terms of population; rather priority was given more on commercial importance (Banerjee, 2017).

Powers of the Legislature of the Government of India

The Central Legislature composed of the two Houses had been entitled with extensive powers. Legislation for the whole British India, for Indian subjects and the servants of the Government, whether inside the country or outside was the responsibility of the Central Legislature. It had the authority to repeal or amend any existing law in the country. The members had the right to move resolutions and motions for adjournment of the House for considering urgent questions of public importance. They were also entitled to ask questions and supplementary question. In short, they enjoyed the right to freedom of speech. But while introducing bill previous sanctions of the Governor-General was essential on some issues like, amendment or repeal any existing law or ordinance of the Governor-General, foreign relations or relations with the native states, discipline or maintenance of the armed forces, public debt and public revenue, religion and religious rights etc. Moreover, if the Governor-General felt that any law or any part of it might affect the safety or tranquility of British India or any part of it, he had the authority to prevent its consideration (Grover & Grover, 1998).

On the contrary of the parliamentary supremacy, the Governor-General, if in any case the House refuses to pass any of his advice, he could pass it by himself subject to the sanction of the Crown. In addition to that, he had a kind of veto power in the process of legislation. He could also promulgate law in emergency cases which was also as effective as laws passed by the legislature (Ryland, 1973). So, all these led the situation to rethink a new Act (1935) that would involve, accommodate and empower the citizens of India more, at least apparently.

The Government of India Act 1935: Towards a Limited form of Representative Government

The Montagu-Chelmsford Reforms of 1919 could not pacify the growing demand of responsible self-government as per the principle of self-determination. In this connection, despite much opposition in the Imperial Legislature when Justice Rowlatt proposed two Bills and got them passed with the assistance of official majority, there created resentment amongst the Congress leaders as well as all over India. Mahatma Gandhi, as a reaction, called for observing *Satyagraha* against this law (Gandhi, 1951). *Hartal* had also been called. In these circumstances, Martial Law was imposed. In Punjab, there took place Jallinwala Bagh tragedy where more than 400 people of Amritsar were killed and 1200 people got injured as General Dyer used machinegun upon a peaceful and defenseless crowd (Fein, 1977). Furthermore, the imposition of humiliating terms upon Turkey (as Indian Muslim perceived this country the symbol of Muslim unity all over the World, i. e. *Khilafat*) (Niemeijer, 1972) created a fervent resentment amongst the Muslim community of India. In addition to that, Swaraj Party formed by Motilal Nehru and C. R. Das achieved absolute majority in the Central Provinces' Councils during the elections of 1923 resulting in it to be the single largest party in Bengal and some other provinces (Bakshi, 1985). It has been highly strategic in exposing the official hypocrisy behind the diarchy as the form of government. Apart from this, the Simon Commission (1927-30), though was due after at least two years, was established with a view to enquiring into 'the functioning of the system of government, the growth of education and the development of representative institutions in British India and matters connected therewith' (Grover & Grover, 1998, p. 537). This effort due to its predetermined motive failed as well.

The refusal to cooperate with the Simon Commission by the Central Assembly left a significant remark amongst all the political parties all over India by isolating the Commission to function effectively. Since all political parties had one main agenda to accomplish, an All-parties' conference was summoned on 19 May, 1928 which was presided over by Dr. M A Ansari. In this conference, under the chairmanship of Motilal Nehru, a committee consisting of Sir Tej Bahadur Sapru, Sir Ali Iman, M S Anney, Mangal Singh, Shuab Qureshi, G R Pradhan and Subhas Chandra Bose was formed for considering and determining the principles of the Constitution of India (Shani, 2016). This Committee submitted its report on 10 August, 1928. Since it envisioned a future link-up British India with Indian States on a federal basis, the report confined itself to British India. It suggested nineteen fundamental rights to be included in the proposed statutes along with a detailed plan for election as per the demand and necessity of the Indians (Shani, 2016). It also outlined the composition of the Indian Parliament as follows:

Table 04: Proposed structure of Indian Parliament by Nehru Report

Chambers	Composition	Power of the Chiefs
Senate	200 Members; elected by the Provincial Councils	Governor General: Appointed by the British Government, paid out of Indian revenues; act as per advice of the Executive Council which would be responsible to the Parliament
	Tenure: 07 years	
House of Representatives	500 members; elected through universal adult franchise	Governor: Appointed by the British Government, paid out of Indian revenues; act as per advice of the Provincial Executive Council.
	Tenure: 07 years	
Provincial Councils	Members varies; elected through universal adult franchise	
	Tenure: 05 years	

[Table prepared by the authors drawn from (Banerjee, 1917), (Shani, 2016)]

In the All-Parties' Conference on December 02, 1928, the Nehru Report through some amendments proposed by Mr. Jinnah as representative of Muslim League received unanimous approval. Congress welcomed this report being all parties' and adopted a program that if this report without any amendment would not be passed in the British Parliament by one year (December 31, 1929), then they would organize a campaign of non-violent non-cooperation, non-payment of taxes, etc. (Muldoon, 2000). Despite accepting this report by the Subjects Committee of Muslim League with a number of reservations, the open session of Muslim League, after three months rejected it and declared its affirmation with 'fourteen points' of Mr. Jinnah which they said to had been the minimum condition acceptable to the Muslims for any political settlement. Congress, on the other hand, had accepted this report including the amendments on condition that this had to be implemented by one year of its declaration (December 31, 1928-December 31, 1929). Moreover, the changed complexion in British Government during that time gave rise to the hope and aspiration amongst the Indians. The promise of 'Dominion Status' even could not pacify the Congress leaders due to another proposal for Round Table Conference (Rao, 1932). A subsequent meeting between the then Viceroy and Mr. Gandhi being failed to bring a fruitful outcome led to the rejection and avoidance of the stated Conference by the Congress leaders. Finally, in May 1930, under the leadership of Mahatma Gandhi, a Civil Disobedience Movement started and Mr. Gandhi with thousands of volunteers started marching towards Dandi

Beach. This movement was subdued by the British government with *Lathi* charges, arrests and issuance of ordinances (Jaffrelot, 1999). Keeping key performers of Congress in jail, as per the declaration of the British Government, the Round Table Conference took place having 'side benchers' like, Sir Mirza Ismail, Sir Akbar Hydari and the Maharaja of Bikaner as the representative of the Indian states (Bridge, 1989). A long discussion brought all parties to unanimity in declaring three basic principles:

- a) The new Government of India would be an All-Indian Federation
- b) The Federal Government would be responsible to the Federal Legislature with some reservations and
- c) The Province would enjoy autonomy (Coupland, 1943).

Since there was absence of Congress representatives in the first Round Table Conference, with the initiative of Sir Tej Bahadur Sapru and Sir M R Jayakar, there took place Gandhi-Irwin Pact after Mr. Gandhi had called the Civil Disobedience Movement off (Jaffrelot, 1999). In the second Round Table Conference (September 01 to December 01, 1931), Congress had its sole representative Mr. Gandhi who was disgusted due to so called secret understanding between Mr. Jinnah and British Secretary of State for India Sir Samuel Haore (Grover & Grover, 1998). However, after the third Round Table Conference (November 17 to December 24, 1932), the working basis of the functioning of the Government of British India popularly known as 'White Paper' was determined—dyarchy at the Center and responsible government in the provinces (Appadorai, 1937). A Bill was introduced in the House of Commons by the then Secretary of State for India in February 1935 which being passed became the Government of India Act, 1935 (Metcalf, 1989).

Principal sources of the Act are as follows:

- i. The Simon Commission Report
- ii. The Report of the All-Parties Conference (The Nehru Report)
- iii. Three successive Round Table Conferences
- iv. The White Paper and
- v. The Lothian Report for the Electoral Provisions of the Act (Appadorai, 1937)

Changes made through the Government of India Act 1935

The Government of India Act 1935 brought significant changes in the political and administrative structure of British India having three fundamental features—firstly, establishment of an All-Indian Federation; secondly, responsible government with safeguards, and lastly, separate representation of communal and other groups (Susman, 1976).

All-India Federation: an attempted Unity in Diversity

The Act focused on establishing an All-Indian Federation including the Indian States upon their desire with certain conditions. Federation would not come to a reality until and unless—

‘a number of States, the rulers whereof were entitled to choose not less than half of the 104 seats of the Council of State and b) the aggregate population whereof amounted to at least one-half of the total population of all the Indian States, had acceded to the Federation.’ (Grover and Grover, 1998, p. 535).

The instrument of accession was detailed out there for a State to join the Federation.

Though diarchy was rejected by the Simon Commission, it was restored for the Federal Executive. The power of the Governor-General in this connection is shown in the following diagram:

Table 05: Federal Executive in the Government of India Act, 1935

Powers of the Governor-General		Areas of Jurisdiction
Appointment	Maximum 03 Councilors appointed by Governor-General	Defence, External Affairs, Ecclesiastical Affairs, Administration in Tribal Areas
	Not more than 10 Council of Ministers would hold office during his pleasure; compulsion of inclusion—representatives of the Indian States and Minorities as per Instrument of Instructions to the Governor-General	All Subjects; ‘Special Responsibilities’, like preventing any grave menace to the peace and tranquility of India or any part thereof. In this regard, he has absolute authority to take or reject advice of the Ministers.

[Table prepared by the authors drawn from (Gorver & Gorver, 1998)]

The Federal Legislature of India, according to the above mentioned Act, was bicameral—one was the Council of State and the other was the Federal Assembly. The composition of both the Chambers are given in the following table.

Table 06: Federal Legislature in the Government of India Act, 1935

Aspects	Chambers	Council of State	Federal Assembly
Nature and Tenure		Permanent body, 1/3 rd to be elected triennially	Elected body for five consecutive years
Composition		156 Elected Members from British India	250 Elected Members from British India
		Not more than 104 Members from Indian States	Not more than 125 Members from Indian States

Nomination	Princes nominate 2/5 ^{ths}	Princes nominate 1/3 rd
Nature of Election	Direct Election	Indirect Election, by Provincial Legislative Assemblies

[Table prepared by the authors drawn from (Appadorai, 1948)]

So, through this Act, the British Government had accommodated almost all diversified classes of citizens of India, at least those who could raise voice and put their demands in front. The following analysis would combine all the above mentioned circumstances in connection of the growth of representative elements in the government structure, particularly in the legislative bodies.

Towards Evolving Parliamentary Government: Analyzing the Representative nature of Government

As a system of government parliamentary representative government in India had been inherited from the British rule. Since Britain had a longstanding history of development of parliamentary representative government in course of time, their experience had been applied in different given circumstances, especially while introducing any Act. Very importantly, the new English-educated class in India with their orientation of British institutions has also played crucial role in the evolutionary process of representative government in British India by placing like-minded demands.

The enactment of the Indian Council Act of 1861, as first statute is regarded as the inception of representative institutions and legislative evolution. For the first time in history of British India, non-official Indians started to get associated in the legislative process through a formal platform. The anti-British movements before 1861 played pivotal role in this arrangement of institutional procedure for placing public demands and defending the public policy or initiatives adopted by the government. The gap created between the ruler and the ruled had been attempted to eliminate through this Act. In this connection, it can be said that this Act could at least serve the purpose of publicity, discussion and information so as to avoid any resentment from the subjects. Yet, it is to keep in mind that the native non-official members of the Council were not elected by the citizens, rather were nominated by the Viceroy. The selections were as usual the loyal *Zaminders*, the Indian Princes or their *Diwans* and some cases retired officials; but not natural or popular leaders who could truly represent the aspirations of the constituencies. In addition to that the selected representatives were mostly reluctant to participate in the meetings of the Council, may be due to their limitations of power in the Legislative Councils. They were very much in a hurry to depart immediately after the meeting as their functions were very much limited to legislation. They neither could entertain any motion except a motion for leave to introduce a bill

nor could inquire into grievances, nor call for information, nor examine the conduct of the Executives. Moreover, all matters related to finance remained under the exclusive purview and command of the Executive Council (Dodwell & Rose, 1932). Finally, despite the failure of the Act to establish representative government in the truest sense of the term, it started the practice of representative institutions, particularly the legislature laying down the foundation stone of representative democracy in British India. All its constraints paved the way for next Act (1892) showing a growing demand from the natives.

We argue that the Act of 1892 is simply a wider version of the previous Act of 1861. Yet, it expanded the powers and functions of the legislatures both central and provincial. A limited format of electoral process, though we cannot say totally a representative one, had started as a nominal practice. Moreover, due to expansion of the functions of the legislatures, the best talents of the country got inspired to participate in this process. As a result, leaders like Asutosh Mukherjee, Gopal Krishna Gokhale, Rash Bihari Ghosh and Surendra Nath Bannerjee got themselves involved in (Grover & Grover, 1998). Their political wisdom played the pivotal role in creating patriotism amongst the educated Indians. Very importantly, the size of both central and provincial legislatures was extended. In spite of much shortfall from the representative democracy, the way it gave some control of the Legislature over the Executive and the provisions included for some forms of election of the members for legislatures can be said to have paved the way for the emergence of parliamentary representative government in India. The immediately after adopted Act (1909) thus brought more representation in the governmental structure.

Though real power remained at the hands of the Government, a blend of representative government was made through the Morley-Minto Act of 1909 by introducing narrow franchise, indirect elections and vesting limited powers to the Legislative Councils (Smith, 1935). Its arrangement for election of the Muslim community brought a crucial problem in the politics of India. Jawharlal Nehru, in this connection said:

Political barrier was created round them, isolating them from the rest of India and reversing the unifying and amalgamating process which had been going on for centuries... The barrier was a small one at first, for the electorates were very limited, but with very extension of franchise it grew and affected the whole structure of political and social life like some canker which corrupted the entire system. (Nehru, 2008, p. 354)

This is not the end of this separation of electoral system. The Sikhs later on got their separate electoral rights and special representation through the Act of

1919 while the Indian Christians, the Europeans and the Anglo-Indians also got their respective representations through the Act of 1935. The Reform of 1909 is, thus, said to be a 'benevolent despotism' tempered by a remote and occasionally vigilant democracy (Nehru, 2008). In the truest sense of the term, this Act (1909), though could not meet the aspirations of the Indians, brought about a qualitative change in the political and societal structure for placing the demands and due shares of the respective communities. Critics might see this Act through the glass of representative government 'the shadow rather than the substances', yet it is a development towards representative government in comparison with the previous state of affairs in the Legislative processes. Moreover, it had led the British Government introduce the Government of India Act 1919 which is popularly known as Montagu-Chelmsford reforms.

The representative Government, after enactment of the Government of India act of 1919 was lot more responsive, though not so responsible in nature to the Center. Some members of the Legislative Assembly were given the charge to be in the Standing Committees like; Public Accounts Committee and Finance Committee which let them get things done for the Indians. Moreover, exercising their right put questions and supplementary questions they could expose true intention of the Government to the subjects. Even the members of the Legislature could, to some extent, compel the Executive Council respond to the wishes of the Legislative Assembly as a rule (Nehru, 2008).

A very significant aspect, though of the Executive, should be mentioned here that through the enactment of the Government of India Act of 1919 diarchy had been introduced in the Provinces. There had also been changes in the Provincial Legislature which were known as Provincial Councils. The size, functions and powers were also expanded. There were variations in the number of members Legislatures from province to province. One very significant point to be noted here is that among the members of the Provincial Councils at least 70% were elected while not more than 20% percent were officials and the rest were nominated (Philips, Singh & Pandey, 1962). According to D.D. Basu, the powers of both the Houses "were equal except that the power of vote supply was given exclusively to the Legislative Assembly Lower House. The Electorates were, however, arranged on a communal and sectional basis, developing Morley Minto device further" (Das, 1977, p. 10).

It is quite obvious that the elected members were increasing in a significant manner. However, that change even could not satisfy the natives of their urge for 'self-rule' and 'self-government' that led to the movements like 'Swaraj' and 'Non-cooperation' (Das, 1977). The circumstances forced the British Government appoint Simon Commission in 1927 for inquiring the working

of Montagu-Chelmsford Reforms in 1919 and making a recommendation (Das, 1977). On the basis the White Paper produced through Round Table Conferences (1930-1932) and the recommendation of the Simon Commission the Government Act of India, 1935 was passed for meeting the aspiration of self-rule and self-government by the Indians (Das, 1977).

Though the pivotal role was for the Governor-General in the Center and Governor in the Provinces, yet ensuring provincial autonomy instead of diarchy safeguarded more participation of the local citizens in the government. Abolishing the distinction between 'Reserved' and 'Transferred' power, a full responsible government was established subject to certain safeguards. Six provinces—Madras, Bombay, Bengal, U.P., Bihar and Assam were provided with bicameral legislature. The franchise was expanded as well by lowering property qualifications (Philips, Singh & Pandey, 1962). In this process, according to the demands of the Indians and grants by the British government the growth of representative government took place in British India. This can be easily understood by the above mentioned process while checking the number of representatives' increasing trend in the legislature as well as their expanding areas of jurisdiction, i. e. empowering the natives in the parliament

Conclusion

Standing behind the aforesaid discussion, it is quite obvious that the journey of the representative government in India was initiated through the take-over of power by British Government in 1858, immediately after the *Sepoy Rebellion* (1857). As a result the Indian Council Act, 1861 was passed in the British Parliament perceiving the circumstances. It set the first example of inclusion of Indians in the government structure which has been initially done for pacifying the resented Indians. The home-grown demand put heavier pressure letting the British government introduce the Act of 1892, an expansion of representation with a little wider capacity of the Indian Legislative Assembly members. It is to be noted here that the changes had been made with a view to appeasing the locals as well as using them as instruments of keeping colonial structure intact. Very interestingly, none of the Acts were introduced keeping in mind the welfare and democratic sentiment, rather as tactics of mutually benefitting strategic memorandums for facing and appeasing Indians' grievance and meeting their demands. So, with the introduction of the Morley-Minto Reforms in 1909 (The Government of India Act, 1909), the size of the Provincial Assemblies were enlarged as a result of which official majority was abolished, i.e. no more unelected officials' majoritarian state of affairs. A mechanism of election was also introduced through this Act; for example, separate electorate for the Muslim community was also arranged for ensuring representation by lagged-

behind community. But the popular demand was for more representation in the Parliament which was partially fulfilled by the enactment of the Government of India Act, 1919 (popularly known as Montagu-Chelmsford Reforms). By this Act (1919), 'Diarchy' or dual government was introduced in the administrative structure of the government. Representations were expanded and bicameral legislature was introduced. Yet, the reaction of the Indians towards this Act (1919) had forced the British Government to introduce the Government of India Act, 1935 which finally could meet a little the growing demand of 'self-rule' or 'Swaraj'. The electoral process through this Act (1935) had been expanded; the representation from almost all religious communities had been ensured by reserved seats; the sizes of both Provincial and Central Legislatures have been expanded; and representation from different constituencies, Provinces as well as Indian states was ensured in the Federal Legislature. That is how, the evolution of the representative government in British India had happened in course of the British Government's direct rule by the inclusion of representatives from the Indians in the government structure of the then British India due to popular demand of the Indian citizens. Thus, the presentative government as an institution has been in practice as a colonial legacy in India—not by imposition but by phase by phase evolutionary process.

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