AILET

Key Constitutional Developments Between 1937-1947 for CLAT (Part 2/2)

Mrinaal Datt · 20 Dec 2021

As a law aspirant, you are expected to know the history of the Constitution of India, which is the foundation of the legal framework of the country. In exams like CLAT, AILET, SLAT etc, you will be tested on your knowledge of the Indian Constitution. This article discusses the key constitutional developments between 1937-1947. You can read the **previous part here**.

KEY CONSTITUTIONAL DEVELOPMENTS BETWEEN 1937 TO 1947

Resignation of the Congress Ministers and the Two Nation Theory

When the World War II broke out, the British declared India to be a belligerent country (a country engaged in conflict or war) without consulting any Indian political party. The Congress said that the issues of war and peace for India should be decided by Indians and it refused support from Indians to the largely imperialistic World War II.

Congress demanded to know the clear stance of British about Indian's position in the war. But this was not provided by the British and hence as sign of protests the Congress ministers from almost 8 provinces resigned.

Mohammad Ali Jinnah took advantage of this situation and began to preach what he called the two nation theory. This theory was based on the idea of continued hostility and complete separation between Hindus and Muslims.

When in 1937 the part of the Government of India Act, 1935 relating to the provinces was enforced, elections were held. In the election, the INC won with complete majority in Madras, the central provinces, Bihar, Orissa and the united provinces (present day UP & Uttarakhand). Then the Muslim League members of some of the Hindu majority provinces expected the INC to invite them to form a coalition government.

But the INC did not do so. And to many historians and scholars, this felt like a big mistake on part of INC. Instead the Congress told the Muslim League to cease to function as an independent

party, which the Muslim League obviously refused to do.

Muslim League started creating fear in the minds of the Muslims especially those living on Hindu majority provinces, of Islam being in danger from Hindus. They declared Congress to be a fascist party which intended break communal peace.

August Offer, 1940

Winston Churchill became the Prime Minister of Britain in 1940. Also, France fell into the clutches of Germany and Britain faced the threat of immediate Nazi occupation. This made the INC soften a bit towards the British and they tried to strike a deal with them.

The INC offered to cooperate with the British in the war if they transferred their authority to India and agree to make an interim government. So the British in reply to this sent a counter offer though Viceroy Linlithgow which was called the August Offer.

The offer said that the constitutional reforms or issues cannot be discussed at the moment since the war was going on. They agreed to set up a representative Indian body to frame a Constitution for India. Meanwhile, the Viceroy's Executive Council would be expanded immediately to include more Indians.

Congress refused to accept the August Offer.

The Cripps Mission, March 1942

The Congress continued to not cooperate with the British. So to secure Indian cooperation, Sir Stratfford Cripps was sent to India. Cripps Mission came to India in 1942 with a draft declaration of the British government and started negotiations. But the mission returned to India unsuccessful in April, 1942.

The main proposition of the mission was gaining full cooperation from India for the war and in return it promised full self-government (dominion status) and elections to the Indians post the war.

Quit India Resolution, 1942

After rejecting the proposals of the Cripps Mission, the Congress called for Quit India Movement. The Quit India Resolution was passed on 8thAugust, 1942. The Resolution demanded immediate end of the British rule in India.

After the resolution, protests were launched. The government tried to violently suppress the movement. Gandhi was arrested and so were other congress leaders who were imprisoned till late 1944. After coming out of jail, Gandhi began negotiations with Lord Wavell.

Congress also came up with a proposal for settlement with the Muslim League. They wanted the Muslim League to support the Indian demand for independence and cooperate with the Congress. Jinnah refused to accept this offer.

Wavell Plan, 1945

In a situation when the war had ended, more than 3 million people had lost their lives in the famine of Bengal and Orissa, the Congress did not support the British at all. Muslim League escalated their demand of a separate sovereign and the British did not agree to flee the country and considered it dishonourable to leave without an universally agreed agreement.

Lord Wavell came with a plan to somehow help the situation. He suggested formation of a new Executive Council at the Centre in which all but the Viceroy and the Commander in Chief will be Indians. This executive council was supposed to be for the time being, till a new permanent constitution could be agreed upon and came to force.

All portfolios except the Defence would be held by the Indian Members. Wavell also wanted a conference of representatives for the purpose of getting the leaders of various parties to present a list of persons worthy of being in the new executive council.

The Simla Conference

This Conference was between the Viceroy and the leaders of the major parties (Congress and Muslim League) to reach an amicable solution and to approve the Wavell plan. It reached to partial agreement on self-rule of India with separate electorates for Muslims.

Congress did not agree with most of Jinnah’s demands. So no final interim arrangement could be reached without the consent and cooperation of the Muslim League. It was in the Simla conference, which more or less failed, that the Congress realised that they have reached a point of no return. The formation of Pakistan looked inevitable now.

Cabinet Mission Plan, 1946

By the time the Cabinet Mission Plan was formed, the British were more eager to leave India than Indians were in making them leave. The cabinet mission was actually setup to explore the future of Indian states and to decide where the power goes.

INC claimed to represent the whole of India and the Muslim League was representing only the Muslims. By 1946, Jinnah wanted Pakistan to happen even if it was the size of a handkerchief. But the mission ruled out the possibility of Pakistan. The mission's recommendations were:

- There should be a union of India with British Indian states and the princely states.
- There should be an executive and a legislature at the centre which shall be constituted by the participation of all the states.
- If communal issues arise, they need to be voted upon by the majority representation from each community involved.
- There should be formation of a constituent assembly of 389 members for framing a constitution for India.

By 9thDecember, 1946 the Constituent Assembly started functioning. But in January Jinnah declared the Assembly to be invalid and said he did not expect the Assembly to give fair rights to his assembly and he wanted a separate land for Muslims.

Finally, India gained independence on 15thAugust 1947. The Constitution was ratified on 26th November 1949 and came into force on 26thJanuary, 1950.

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