

**“The East India Company: Legal and Judicial System and its Reforms”**

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**INTRODUCTION**

The coming of the East India Company and its need to strengthen its empire in India needed a bed-rock of validation other than its military might. In order to justify its control over its Indian possessions, in the latter half of the 18th century it had to “device a vision at once of India’s past and its future to design an effective administrative and legal structure.” The British legal system imposed on India was neither totally European in character nor did it leave the Indian legal system untouched. With the grant of ‘Diwani’ rights in 1765, the East India Company was given the land revenue rights and administrative rights to civil justice in newly acquired Bengal. One of the prevailing questions faced by the Company was the dilemma over the status of the prevailing judicial structures in the province. It was important to decide whether the old judicial system was to be retained or a new system, based on judicial law should be introduced. Some in the EIC realized that a somewhat workable mixture of European and indigenous legal structures was also possible. Back in Britain, the capacity to assess and collect taxes was totally contingent on the backing of existing legal systems as the courts guaranteed and protected property rights. Warren Hastings, after taking charge as governor general in 1772, planned to establish a competent network of courts ,especially since they were needed to help in the liquidation of debts at interest, to deal with disputes between raiyats and farmers or between farmers and government officers, and to decide complex questions of inheritance. However, the institution of new law courts had raised new questions of legality and authority. Another strategic question facing the Company was the question whether it possessed the required political authority to totally restructure local judicatures. Warren Hastings solution was to work on improving existing courts, rather than totally reshaping their authority.<sup>1</sup>

Seated in Calcutta, two courts were supposed to act as the court of appeal for lower civil and criminal courts sitting in the districts of Bengal. In addition, each district was to have two courts a mofussil diwani adalat for the Cognizance of Civil Causes and a faujdari adalat for the trial of all Crimes and Misdemeanours. The new judicial system saw a curious delegation of power between Indian and European officials. Company officials, senior council members in the chief adalat and the district collectors were to preside over the civil courts. In the criminal court system, which would remain a part of the nizamat branch of government under the old Nawabi order, a continuity was maintained as Qazis and Muftis (the Muslim law officials) were to preside, despite the fact that even these criminal courts would come under the supervision of the

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<sup>1</sup> [http://www.ijhssi.org/papers/v3\(4\)/Version-1/J0341059062.pdf](http://www.ijhssi.org/papers/v3(4)/Version-1/J0341059062.pdf)

Governor-General. The 1772 judicial plan was centre on the programme to preserve indigenous laws of India. <sup>2</sup>It is important to locate the nature of the debates over Indian law that the East India company legal reforms sought to address. It was a commonly held belief among many British observers of India that Indians were governed by no other principle of justice than arbitrary wills, or uninstructed judgement. Hastings however was critical of this view of Oriental Despotism and argued that for both Hindus and Muslims there were extensive bodies of legal texts and commentaries and the “ancient constitution” of Bengal was very much intact.

He believed that the study of ancient Indian learning would not only be a gain of humanity, but would also lessen the weight of the chain by which the natives are held in subjection. To this end, Hastings persuaded “eleven of the most respected pandits in Bengal to compile from the sanskrit literature on Hindu law a code that could be translated into English for the newly appointed judges to use. The English translation by N. B. Halhed was published in London in 1776 as A Code of Gentoo Laws or Ordinations of the Pundits. The Oriental tradition led to the founding of institutions like the Calcutta Madras (1781), the Asiatic Society of Bengal (1784) and the Sanskrit College in Benares (1794), all of which was meant to promote Indian languages and scriptures. Many of the researches and papers were published as monographs, with many more in Asian Researches, a periodical of the Asiatic Society of Bengal. However, the Orientalist scholars made certain fundamental assumptions that had a far reaching impact on all subsequent British understanding of India. Deriving inspiration from the Roman Empire that allowed its subjects the free practice of their own religion and civil jurisdiction, they emphasized the policy of tolerance on the part of the British towards the conquered Indians. However, they presumed that Hinduism was a coherent religion, like Christianity, and that its doctrinal core was to be found in ancient Sanskrit texts. For advice on interpretation of the texts, they turned to the priests of the religion, the Brahmins. Besides, they set for themselves the project of identifying a fixed body of knowledge that could then be codified into Hindu and Muslim law. Scholars like William Jones believed that the earliest legal texts were the most authoritative, for the later ones became corrupt by accretions and commentaries. Thus, though the notion of Oriental despotism received a jolt with the discovery of ancient legal texts, India continued to be viewed as a quintessential Oriental land, and the other of Europe.

### **LAW REFORMS IN BRITISH INDIA:**

During the late eighteenth and governor early nineteenth centuries, the Indian cities are very similar to British cities of the time, were poorly administered and policed. Crimes were widespread and corruption was rampant particularly within the police. Lord Charles Cornwallis complete that implementation of judicial reforms would not be complete while not complete the police reforms. Abundant of the criminal justice system in Bengal remained within the hands of

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<sup>2</sup> [http://www.ijhssi.org/papers/v3\(4\)/Version-1/J0341059062.pdf](http://www.ijhssi.org/papers/v3(4)/Version-1/J0341059062.pdf)

the nominal native ruler of the company's territory. Warren Hasting had tried many times to create changes in policing and also to make changes in the administration of justice, however with restricted success. William Jones, an associate degree knowledgeable on languages and system in ancient republic in India, translated the prevailing Hindu and Muslim penal codes into English. The restricted objective was that the principles of the traditional texts might be evaluated and applied by communicatory judges.<sup>3</sup>

In 1787, Lord Charles Cornwallis gave restricted criminal judicial powers to the company's revenue collectors who had already served as civil magistrates. Most significantly, the collector was divested of judicial and magisterial powers and entrusted with the duty of administration of the revenue. In 1790, the corporate took over the administration of justice from the governor and Charles Cornwallis introduced a system of circuit courts with a judicator that met in urban center and had the ability of the review over the circuit courts selections. However, most of the judges were non-native. Lord Charles Cornwallis had effort to harmonize completely different codes existing at that point. Despite the simplest intentions, the general reforms resulted in institutionalizing discrimination through judicial reforms. One consequence of the general code was that it in effect institutionalized a discrimination against the natives within the system.<sup>4</sup> These policies light-emitting diode to the event of associate degree elite category of English judges in Asian nation. English judges were appointed to varied courts in Asian nations as well as the high court and therefore the federal courts till Asian nation became republic in 1950. The crown courts in Asian nation operated on the idea of law or equity and rule of fine conscience. According to Lord Hobhouse, the expression justice, equity and sensible conscience may well be interpreted to mean the principles of English law if found appropriate to Indian society and circumstances. However the precise scope which means of this phrase was not the law against kid wedding in Asian nation.

## **JUDICIAL SYSTEM IN EAST INDIA COMPANY:**

### **INTERFERENCE BY COMPANY:**

East India Company slowly and gradually started interfering in the local justice system by acquiring revenue collection of 38 villages in 1717 near Calcutta. In the Company was granted revenue collection as well accustoms of three provinces. The company also acquired the administration of justice under the area of their control and the role of Muslim kazis and judges was over. Company's officials who were rather than trained judges were running the court system and the Privy Council was born as the highest court of appeal.

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<sup>3</sup> R.S. Sharma "Ancient India" New Delhi, Publication Department, NCERT 1990 p. 11

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**COMPANY'S ROLE:**

The Charter authorized the company to make laws, orders and constitutions for the good governance of itself, its servants, and for the advancement of its trade and traffic. The Company could also impose penalties and punishments by way of fines and imprisonment. The Company could not give capital punishment for serious criminal cases such as murder. The laws made by the company, however, could not be against the laws of England Justice the Company was administering in the beginning for its own employees, especially in the three presidency towns of Calcutta, Madras and Bombay Company start penetrating the local judicial system.

**CHANGES IN JUDICIAL SYSTEM:**

British rulers modified the complete administration of country particularly the law and justice. However, Even Indians were appointed as judges, any contact between judges and also the people was discouraged.

**CHANGES BY EAST INDIA COMPANY IN JUDICIAL SYSTEM:**

- The Charter Act of 1661
- The Charter Act of 1683
- The Charter Act of 1726
- The Regulating Act of 1773
- The Charter Act of 1793
- The Regulation of 1827
- The Charter Act of 1833
- The Indian Penal Code 1861
- The Criminal Procedure Code 1862
- The Judicature Act of 1861
- The Regulation of 1866
- Indian Law Reports Act 1875
- The India High Court Act 1911<sup>5</sup>

**THE CHARTER ACT OF 1661:**

The Most vital of the first Charters is that the one granted by Charles II on April 3, 1661. It licensed the Governor (President) and Council of every manufacturing plant to gauge beneath to the law of European country all persons, whether or not happiness to the corporate or living there. Its purpose was to form Judicature for the company's territorial possessions. The Charter of 1661 was originally for Surat, however was created effective in

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<sup>5</sup> [4.139.60.114:8080/jspui/bitstream/123456789/738/8/History%20of%20Courts%20and%20Legislatures.pdf](http://4.139.60.114:8080/jspui/bitstream/123456789/738/8/History%20of%20Courts%20and%20Legislatures.pdf)

Madras later on within the same year. The Agent of the Corporate was created governor World Health Organization had to administer the Charter. The Island of Mumbai was ab initio non inheritable by the Portuguese in 1534, by relinquishing from the King of Gujarat, ruler Bahadur.

### **BOMBAY AND MADRAS:**

Bombay was a really little and poor city at that point. In 1668, Charles II gave the corporate full Powers, Privileges, Jurisdiction for governance, legislation and administration of justice. In March, 1678, the Governor and council of Madras created a state supreme court of Judicature and resolved to make a decision all civil and criminal cases with the assistance of a jury of twelve men. All different cases and appeals lay to the state supreme court of judicature. Thus, a hierarchy of courts was established in Madras. On August nine, 1683, Charles II granted a Charter to the corporate authorizing it to ascertain one or additional such courts. The court was to in-corporate a person learned in civil law and two merchants were appointed by the company. In 1687, the corporate sent from European nation Sir John Biggs, an expert attorney to act because the choose advocate. Thereafter, the Governor and therefore the council relinquished their judicial functions. The Admiralty Court became the overall court in Madras. Sir Biggs died in 1689 and therefore the Governor and therefore the council appointed the Governor and therefore the choose advocate with two members of the council because the judges of the Admiralty Court. In 1692, a replacement judge-advocate John Dolton, was sent from European nation, however he was laid-off in 1694 on corruption charges. Subsequent judge-advocate was an official adult male William Fraser.

### **THE CHARTER ACT 1726:**

The Charter of 1726 centered on uniformity altogether the three places. The courts established beneath the 1726 Charter derived their authority from the King and not from the corporate. Beneath the new Charter Madras had a **politician** court consisting of a politician and nine aldermen. Attractiveness lay to the Governor and council. Fifteen more attractiveness lay to the King-in-Council. The corporate was allowed to appoint for Madras and its dependencies a general or generals to command the land and ocean forces was allowed beneath the Charter. Same was the case of Mumbai and Calcutta. Altogether the three places cases between the natives weren't amused by the English Courts; however if they requested the Mayor's court, then it assumed jurisdiction. Thus, the corporate tried to respect the sovereignty of native rulers. The sole additions during this Charter were the creation of a Court of Requests whereas attractiveness in civil cases lay to the council in European country. Madras was conquered by the French in 1746 and command it until 1749.

**ESTABLISHMENT OF COURTS:**

- The High Court of Judicature
- The Admiralty Court
- The Court of Bombay
- The Mayor's court
- The Choultry Court
- The Diwani Adalat
- A Fajudari Adalat
- The Sadar Nizamat Adalat
- The Sadar Fajudari Adalat
- The Court of Circuit
- The Privy Council
- The High Court
- The Supreme Court

**ADMIRALTY COURT:**

In Bombay associate Admiralty Court was established in 1684 and Dr John St. John, knowledgeable attorney, was sent from England. Relations between Dr John and Governor worsened and therefore the later took the powers from the previous to undertake standard civil and criminal cases. The Governor established another court to undertake civil and criminal cases headed by landscapist, WHO wasn't de jure trained. Dr John was pink-slipped by the Governor in 1687 for his judicial independence. It's as a result of of this episode that the corporate was terribly reluctant to bring skilled lawyers from England though it had been provided within the Charters. Bombay remained beneath the Mughal occupation from 1690 to 1718. In 1718 another court appeared in Bombay. It consisted of nine judges and a chief justice. Four judges were Indians and were known as black judges. The court had jurisdiction all told cases and wasn't mistreatment any jury. It had been setting once per week and wasn't certain by any precedent. The system continued until 1726 and there square measure several cases of gross injustices meted out by the court to innocent Indians.

**MAYOR COURT:**

In 1688, the corporate established the Madras Corporation and created a Mayor's court as a part of it. The court had one civil authority and twelve aldermen and was conjointly known as the Court of Record. A talented professional person had to be appointed because the Recorder. In the Madras Mayors Court the primary Recorder was Sir John Biggs who was conjointly choose advocate within the Admiralty Court. The Mayors Court had jurisdiction in civil cases likewise as criminal cases. In civil cases valuing over three pagodas, and in criminal cases once the wrongdoer was sentenced to lose life or limb appeals from the Mayors

Court lay to the Admiralty Court. It's vital to notice that Sir John Biggs was choose in each courts. The civil authority Court used jury in criminal cases. In 1712, the Governor associate degreed council in Madras determined that death sentences are given to the natives solely and to not an Englishman. The Admiralty Court failed to set often once 1704 and appeals from Mayors court lay to the Governor and council. The Choultry Court was to do petty cases, civil cases of up to two pagodas.

### **REVENUE COLLECTING:**

The Company's main role until 1757 wasn't the acquisition of territory however rather facilitation of trade and commerce. In 1717, the corporate had secured the correct to gather revenue over thirty eight villages close to Calcutta. In 1756, governor Siraj-ud-Dula captured Calcutta. However, country took it back within the notable battle of Plassey however it failed to annex the territory and put in Mir terrorist as governor. This territory was known as the corporate provided the adalat system for the administration of justice within the moffussil. In 1765, the nominal Mughal Emperor crowned head Alam granted the Diwani of geographical region, state associate degreed state to the corporate for the quantity of twenty six lakhs of rupees every year. The relinquishing of the Diwani or revenue administration of geographical region, state and state marks the start of a replacement era. The corporate was making an attempt to point out that it's non inheritable no sovereignty which its administration was at intervals the Mughal Law. As Diwani, the corporate additionally controlled and picked up customs. Though natives were elbow grease administration they were supervised by the corporate officers. The corporate assumed full responsibility for collection revenue itself in 1771.

### **LAW REFORMS IN BRITISH INDIA:**

During the late eighteen and early nineteen centuries, the Indian cities, very like British cities of the time, were poorly administered and policed. Crimes were widespread and corruption was rampant particularly within the police .Lord First Marquess Cornwallis accomplished that implementation of judicial reforms wouldn't be complete while not police reforms. abundant of the criminal justice system in Bengal remained within the hands of the governor, the nominal native ruler of the company's territory. The restricted objective was that the principles of the traditional texts might be evaluated and applied by communicative judges<sup>6</sup>. In 1787, Lord First Marquess Cornwallis gave restricted criminal judicial powers to the company's revenue collectors, World Health Organization had already served as civil magistrates. most significantly, the collector was divested of judicial and magisterial powers and entrusted with the duty of administration of revenue. In 1790 the corporate took over the administration of justice from the governor, and First Marquess Cornwallis introduced a system

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<sup>6</sup> <https://www.lawctopus.com/academike/understanding-the-creation-of-the-indian-judicial-system/>

of circuit courts with a judicature that met in urban center and had the facility of review over circuit court choice efforts to harmonize totally different codes existing at that point. By the time of his departure. However, most of the judges were non-native. Lord First Marquess Cornwallis had initiated 1793.

### **CONCLUSION:**

During British rule, it will be same that Asian country went through an excellent deal of experimentation and empirical learning. several courts were created and so abolished and replaced with new mechanisms to resolve disputes. country decree Asian country, had some terribly positive impacts on our system, and therefore the manner during which we tend to administer justice: Rule of law alongside the importance of associate degree freelance judiciary were introduced through country regime. The conception of separation of powers was enunciated and increased in Asian country through their laws and policies.. They inflated the access to justice, permanent its reach to the tiniest elements of the country. Through the Law Commissions Asian country finally had a certain set of laws that might be applied uniformly The real impact was felt post-independence through our Constitution laws. However, this concept of a good and impartial system wherever the judiciary was freelance from the opposite organs of state, came to Asian country solely via country. The system that existed once country came to Asian country, was in nice would like of reform and therefore country gave our system the a lot of required modification<sup>7</sup>. Through their experimentation, the Constituent Assembly was able to see what new practices and what previous Ancient practices can be coupled to make our new system when independence. It is so over that the contributions of country are thus necessary that the terribly existence of our judiciary and system will be attributable to them. truth impact of country efforts will therefore be summarized by spoken communication that they revamped our system to form it fairer and additional accessible to any or all voters.

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<sup>7</sup> <https://www.lawctopus.com/academike/understanding-the-creation-of-the-indian-judicial-system/>