

EIC Administration

1765-72 - Dual Government in Bengal

- a) Treaty of Allahabad 1765, made EIC top authority on Diwani (Revenue matters) while Nawab retained Nizamat (rest of administration e.g. Law & Order).
- b) However due to ideology of Orientalism & due to fear of any negative reaction from Indians, the EIC wanted to rule India the Indian way. Hence administration continued to be Indian even in Diwani and Indian officials continued to be effective decision makers.
- c) Deputy Subadar headed diwani as diwan of EIC & headed nizamat on behalf of Nawab.

1772 – Direct Government: Dual Govt was ended and now EIC implemented its administration in Diwani as well as Nizamat because-

- 1. Believed that EIC administration would be more efficient leading to more revenue collection (Low LR collection since Great Bengal Famine 1770).
- 2. Will lead to better law & order (Poor Law & Order since 1770).
- 3. To fulfil white man's burden by providing a fair administration with rule of law equally applicable to all Indians, therefore ending feudal privileges.
- 4. Direct rule will allow EIC to establish its sovereignty i.e. establish firm control in polity of Bengal by eliminating Indians from senior positions in administration (* in minds of people EIC authority would be established when they see British officers handling administration)

Judicial administration - @Mughals –

Sadar -Diwani Adalat

Sadar Nizamat Adalat

District: Diwani Adalat

Nizamat /Faujdari Adalat

(for civil cases)

(for criminal cases)

In civil matters,

- Personal Laws of Hindus and Muslims were used in cases related to marriage, inheritance etc
- In Diwani Adalats at district level- Hindu Pandits acted as judges for cases of Hindus and Kazis & Muftis acted as judges for cases of Muslims.

In criminal matters,

- Islamic law was applied
- In Nizamat Adalats at district level, Kazis (Judge) & Muftis (expert on Islamic law) together acted as judges.

Appellate courts i.e. Sadar Diwani Adalat and Sadar Nizamat Adalats were headed by Deputy Subadar on behalf of Nawab.

Warren Hasting's System of 1772(Judiciary)

1. In **Diwani Adalats** at district level European DC was made judge & he was to be assisted by pandits & maulvis. Personal Laws of Hindus and Muslims were used in cases related to marriage, inheritance etc
2. In **Nizamat Adalats** at district level, Kazis & Muftis continued to head the court but put under supervision of European DC. This was because Law & Order was considered more sensitive & British didn't want to interfere with existing system.
3. Sadar Diwani Adalat (***SDA**) & Sadar Nizamat Adalat (***SNA**) to be headed by GG(Bengal) (from 1773, before that G(Bengal))& his council members.
4. 1772-74 Md Reza Khan was imprisoned without trial for two years after being blamed for corruption & poor law & order

Changes of 1773 by Warren Hastings (Judiciary)

- **Separation of powers** implemented at level of European DC and now to prevent conflict of interest, an officer who was a DC was not to be a judge & vice versa.
- To bring justice physically closer to people, Diwani Adalats at district level were replaced by **18 Mofussil courts** headed by a European judge (Mofussil implies rural areas or rural districts or areas of countryside).

SDA (civil)

SNA (criminal)

@Rural Areas: 18 MOFUSSIL COURTS

@district; Nizamat Adalat

- **Regulating Act 1773** led to setting up of a Supreme Court at Calcutta in 1774 & by Bengal Judicature Act of 1781-
 - a) **Jurisdiction of SC** = all cases in Calcutta + Cases involving EIC property at Fort Williams in Calcutta + Cases involving British born subjects in Bengal Suba except acts done by EIC officials in their official capacity where jurisdiction to be of GG (Bengal)
 - b) For rest (i.e. majority) of the cases the hierarchy under Sadar Diwani Adalat & Sadar Nizamat Adalat headed by GG(Bengal) & his Council members operated.
- Further **SC was set up in Madras in 1800 & in Bombay in 1823**. It acted as an appellate court to mayors' courts.
- When law & order didn't improve, Md Reza Khan was released from imprisonment in 1774 and made head of SNA.
- In 1775 a committee of 11 pandits & in 1778 a committee of Kazis & Muftis set up for **codification of Hindu & Islamic law** respectively to resolve problem of lack of uniform interpretation of Hindu & Islamic laws.
- **Code of 1781**: It made written orders compulsory & prescribed rules for functioning of courts.

CORNWALLIS CODE of 1793 (Judiciary)

1. Cornwallis re-introduced Separation of powers at level of CCS (covenanted civil service) officer to reduce concentration of power. He wanted to protect rights of landlords i.e. zamindars & prevent their harassment by revenue officials (**Cornwallis believed in security of property for agrarian capitalist & was

against corruption. To curb corruption he had increased salaries of EIC officials and curbed private trade by EIC officials)

2. In Civil matters

- a. Ended Mofussil courts and brought Diwani Adalats at District level and City Courts for cities.
- b. Created a 3-tier structure of judiciary to reduce burden of cases on GG(Bengal) & Council members who headed SDA.
- c. For this, Bengal was divided into 4 divisions (Patna, Murshidabad, Calcutta, Dacca) & a “Provincial Court of Appeal” was setup in each division. These courts acted as appellate courts hearing appeals arising from Diwani Adalats at district level and from city courts
- d. Appeals from divisional courts (i.e. Provincial Courts of Appeal) were heard by SDA headed by GG(Bengal) & his Council members.
- e. Personal Laws of Hindus and Muslims were used in cases related to marriage, inheritance etc

3. In Criminal matters

- a. Ended Nizamat Adalats in districts.
- b. Divided Bengal into 4 divisions (Patna, Murshidabad, Calcutta, Dacca) and a “Court of Circuit” was setup in each division. Court of Circuit is a court that sits in different places in a an area/circuit.
- c. Appeals from divisional courts (i.e. Courts of Circuit) were heard by SNA headed by GG(Bengal) & his Council members.
- d. Islamic Law was used in criminal matters.

4. All courts were to be headed by European officials as Cornwallis was an authoritarian who wanted to remove Indians from all senior positions + wanted to decrease corruption of kazis & muftis in Nizamat Adalats who were now to merely assist the European Judges.
5. Office of deputy subadar/ Naib Nazim was abolished.
6. Now lawyers could be appointed to fight cases of others therefore new class of lawyers got created.

JUDICIAL SYSTEM IN RYOTWARI AREAS

1. Ryots were made landowners therefore large number of property owners led to high number of revenue related disputes and hence courts were overburdened + district courts were physically far away for a poor ryot.
2. Therefore, Bengal system, replaced in 1814 in Madras on advice of Thomas Munro.
3. Separation of power was ended & European DC & his subordinates were given judicial powers so they can adjudicate cases at ground level itself. This also led to greater Indianization of judiciary at lower levels.
4. However there was now over-concentration of power in revenue officials.
5. System was extended to Bombay by Elphinstone in 1819.

(Judiciary) Charter Act 1833:

- One Legal member was added to GG(India)'s council. Thomas Macaulay was made the law member and a Law Commission setup under him for codification of laws which was completed by 1837. However revision & updation continued and

full implementation took place post 1857 in form of Civil Procedure Code 1859, Indian Penal Code 1860 and Criminal Procedure Code 1862.

- Judicial positions were opened for Indians.
- GG(India) in Council was made the central and single legislative authority for British India and the laws made were to be equally applicable to Indians & Britishers in India.
- **Impact on Indians**
 - Now justice was psychologically distant as Indians were not aware of British like law and also due to complexity in law.
 - Justice was physically distant and monetarily distant due to legal fees of lawyers.

(Judiciary) Reforms by William Bentinck (1828-35, GG (India))

- Ended courts at division level i.e. Provincial Courts of Appeal (civil matters) and Courts of Circuit (criminal matters) which had high pendency of cases. This also reduced expenditure of govt.
- Judicial powers of these divisional courts were given to District Judges.
- Use of vernaculars in lower courts instead of Persian and English instead of Persian in higher courts.
- Created SDA & SNA (*i.e. high courts) in North West Provinces (*1801- half of Awadh annexed) so people don't have to come to Bengal's SDA & SNA for appeals.

Indian High Courts Act 1861 led to setting up of High Courts at Madras, Bombay, Calcutta by 1865. Calcutta HC created by merging SDA, SNA & Supreme Court at Calcutta.

Government of India Act 1935 led to setting up of a **Federal Court** (*Supreme Court) for British India. It dealt with Inter-Governmental disputes and appeals against decisions of High Courts.

Civil Services

1. To begin with Civil Servants were nominated by EIC and after training at **Haileybury College** in London, were sent to India.
2. Initially all civil services were Central Services as Provincial Civil Services were not setup.
3. **Cornwallis (1786-93)** reorganised civil services or Central Services into Covenanted and Uncovenanted on basis of nature of work, pay & appointing authority. He promoted merit based selection, increased salaries, curbed private trade and re-introduced separation of powers by taking away judicial powers of District Collectors.
4. **Charter Act 1833**- Judiciary and Uncovenanted Civil Services opened to Indians. Bentinck (1828-35) encouraged recruitment of Indians in some senior positions.
5. Exam was introduced by **Charter Act of 1853**
6. 1854- a Select Committee of Parliament headed by Macaulay also supported idea of a Permanent Civil Service recruited through an exam instead of patronage based civil service (*i.e. hire & fire at will of EIC)

7. 1854- **Civil Services Commission** (*like UPSC) setup in London
8. 1855- **1st exam** held in London. Exams were held in London. Indians were eligible and hence Covenanted Civil Services were now open to Indians.
9. **Age Limit**- minimum 18 maximum 23 years.
10. **Syllabus**- dominated by English Literature.
11. After **GOI Act 1858**, the training did not take place at Haileybury college but continued to take place in England.
12. **1860 onwards**- pressure by western educated Indians for indianization of civil services via simultaneous exam in India and higher age limit. Exam was not held simultaneously in India + maximum age was kept low to prevent Indians from clearing the exam as British were highly insecure post 1857 and also racist and did not want Indians in senior positions.
13. 1864- **1st Indian** to clear exam= Satyendranath Tagore (brother of Rabindranath Tagore). 1867- Four more Indians cleared exam.
14. **1867- Indian Forest Services**
 - a. 1864- Imperial Forest Department setup.
 - b. 1867- Indian Forest Services setup
 - c. Until 1885- Forest officers were trained in France & Germany then until 1905 training in London
 - d. 1920 decision that recruitment to Forest Service via exam in London & in India and via promotions from PCS.
 - e. 1966- Indian Forest Service created under All India Services Act 1951

15. **Statutory Civil Services Act 1878:** In 1870 Parliament gave directions for indianization of civil services. Instead of holding exam in India or increasing age limit, Lytton(1876-80, Viceroy) brought Statutory Civil Services Act 1878. Under this, Indians could now be nominated to some posts earlier held by CCS (Covenanted Civil Services) officers but only loyal elites were chosen.

16. **1887- Atchinson Commission** recommended reorganisation of Central services or Civil Services into **Imperial, Provincial & Subordinate**. Recruitment of Imperial Services should be done under authority of SoSforIndia while recruitment of PCS should be done under authority of provincial govts.

17. **Indian Councils Act 1892 (implemented Atchinson Commission report):**

- a. Covenanted Civil Services renamed to **Imperial/Indian Civil Services (ICS)** & Uncovenanted Services changed to **Provincial Civil Services**.
- b. Statutory Civil Services abolished

18. **1912- Islington Commission Report** recommended-

- a. 25% Indians in senior positions via exam plus promotions
- b. Hold simultaneous exam in India.

19. Montague-Chelmsford Reforms / **Government of India Act 1919-**

- a. led to **1st simultaneous exam** in India in 1922.
- b. ICS was split into **AIS and Central Services**. Central services dealt with subjects under direct control of Central govt e.g. Customs, Railways, Post & Telegraph, Central Secretariat Services.

- c. Provided for a **Public Service Commission** (*like UPSC) for recruitment process & to function as per rules made by SoSforIndia (setup in 1926). Exam in London was held by Civil Service Commission (1854)
- d. 33% Indians in senior positions

20. **1923 Lee Commission** or **Royal Commission** on Superior Civil Services in India:

- a. Setup to look into demand of Indianization of AIS & Central Services.
- b. Had equal number of British & Indian members
- c. 1924 report recommended
 - i. Indianization of AIS & Central Services.
 - ii. 20% promotes from PCS in senior positions
 - iii. 40% Indians in senior positions via exam
 - iv. 40% Europeans in senior positions via exam
 - v. Continue organisation of services as **All India, Central and Provincial**.
 - 1. **AIS** to be limited to IAS, IPS, IFS, IES, Indian Forest Services etc.
 - 2. **Central Services** to include Customs, Income Tax, Foreign Affairs, Relations with Princely States, Railways, Audit & Accounts, Engineering Services etc.
 - 3. **PCS**: Provincial govts to have responsibility of recruiting officers in relation to transferred subjects eg Indian Education Service, Indian Health Service etc

- vi. **Exam in India:** Setup a **Public Service Commission** as prescribed in GOI Act 1919 (setup in **Oct 1926**, Ross Barker was 1st Chairman of Commission that had 4 members)
- vii. **Exam in London:** SoSforIndia should continue to recruit ICS, Indian Forest Service officers etc i.e. exam in England should continue
- viii. Provincial govts should recruit for transferred subjects like Education and Health (*Dyarchy was brought by GOI Act 1919)
- ix. In 15 yrs 50:50 ratio between Indians and Europeans clearing exam

21. **GOI Act 1935** envisaged a Public Service Commission for whole of India i.e. for the Federation and each Province or group of provinces to have a Provincial Public Service Commission. GOI Act 1935 came into effect in 1937, thus Public Service Commission (1926) became **Federal Public Service Commission (1937)**

22. Inauguration of Constitution of India on 26 Jan 1950, the Federal Public Service Commission became **UPSC (Art 378 of COI)**

23. By 1947 more than 50% were Indians in civil services.

POLICE

1. Mughal system (continued until 1781)–

- a. Overall head was Deputy Subadar or Naib Nazim.
- b. Faujdars were in charge of policing in rural districts/Sarkars (*the term Sarkar in Maharashtra or Svarajya meant province. It can also mean sub-division)
- c. Kotwals were in charge of policing in towns (urban areas)

- d. Zamindars had police duties and they paid salaries to Village watchman for fulfilling these duties.
2. Great Bengal famine 1770 led to increase in crime
3. **1781 system of Warren Hastings** –
- a. In rural districts, Faujdars replaced by English Magistrates (*DC/DM) + under magistrate were zamindars with police duties as before.
 - b. Result = oppression of masses by Zamindars due to poor supervision due to low number of magistrates.
4. Cornwallis system of 1793 or Daroga system of 1793
- a. removed police powers of zamindars
 - b. divided district into thanas of 30 square miles each
 - c. each thana under a new officer called Daroga (**Indian) appointed & supervised by DM who was to be incharge of law & order in district.
 - d. Result was Daroga-Zamindar nexus whereby Zamindars bribed Darogas & continued to have private armed men/lathiyals. Daroga-Zamindar nexus became main tool of oppression of masses until Indian Police Act 1861. British blamed corruption of Indians for failures of the system.
 - e. 1802- Daroga system applied to **Madras** but later abolished due to negatives of the system. Now police powers were given to subordinates of DC. DC & his subordinates already had revenue collection powers, judicial & administrative powers leading to over concentration of powers. Atrocities of revenue officials (*Mirasidars who were landowner cultivators joined lower

bureaucracy) was revealed in Madras Torture Commission report of 1855 which led to corrective measures.

5. A new model based on Irish Constabulary applied in **Sindh** (annexed in 1843)
 - a. It was successful in Ireland since 1787 in controlling political agitations.
 - b. This model later inspired the Indian Police Act 1861
 - c. Was applied in Punjab post annexation in 1849; in Bombay in 1853; in Madras in 1859
 - d. Police of whole province to be under Inspector General (IG) + District to be under an SP who reported to DC.
6. **Indian Police Act 1861:** Post 1857 revolt, there was focus on effective policing and collection of information and intelligence.
 - a. 1860 - Police Commission led to Indian Police Act, 1861 which established structure and functions of police which continued till 1947.
 - b. Police Act, 1861 –
 - i. State police concept implemented properly throughout British India.
 - ii. Provincial police was to be under an Inspector General who reported to Governor
 - iii. District police under Superintendent of Police who reported to District Collector/District Magistrate
 - iv. Thanas/ Police stations under Sub-Inspector who reported to SP.
 - v. Therefore, for the first time, proper hierarchy of specialists with proper chain of command implemented.

- c. From 1857, a Police Raj was created and Indians were excluded from all important positions.

7. Imperial/Indian Police:

- a. Appointed under authority of Secretary of State for India via exam
- b. 1st exam in 1893 in England
- c. **Police Commission 1902** allowed appointment of Indians at officer level but they stopped in rank where European officer began.
- d. 1920- Decision to allow Indians to join Imperial Police
- e. 1921- 1st simultaneous exam held in England and India
- f. 1912- Islington Commission Report and Lee Commission report 1924 recommended Indianization of civil services
- g. Until 1931- only 20% Indians were appointed as SP.
- h. From 1939 onwards- More Indians posted as SP due to non availability of good European candidates.