

The British Judicial Misgovernance in India: An Analysis of the Regulating Act of 1773 and the Patna case.

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Abstract- In 1773, Calcutta founded the Supreme Court of Judicature, India's legal history advanced significantly. The corporate servants started living lavish lives as soon as they got to Britain and even bought seats in the House of Commons. "The Regulating Act of 1773 and the Act of Settlement were two of the most significant moments in Indian Law History. – The Regulating Act of 1773 made significant changes to the judicial and administrative systems". The Act of Settlement was not established until 1781 in order to fix any mistakes in the earlier Legislation. It was the British Government's initial step towards governing and supervising the East India Company's operations in India. As a result, India was able to set up its first national government as it accepted for the first time the Company's political and administrative duties. We will briefly review the Patana case and the Regulating Act of 1773 in this essay.

Keywords: Supreme Court, Judicature, The Regulating Act, East India Company, Patna Case, Nadir Begam, Bahadur Beg,

1. Introduction.

The Regulating Act of 1773 was approved by the British Parliament which reorganised the East India Company's activities in India. The Bengal territory of the East India Company was governed by the East India Company Regulation Act of 1773, the British Parliament passed it. The company was mishandled by the British East India administration, which resulted in its insolvency and necessitated government assistance to keep it going. The dual goals of this rule were to restrict the corporation inside its Indian zone and to control its behaviour and activities. The word "regulating" suggests that it did not fully gain power.

The Governor-General and four Councilors of Fort William (Calcutta), as they are often called, were chosen in line with the legislation. Warren Hastings has been awarded the title of Governor-General of the Presidency of Fort William as a result of this appointment. The foreign policy choices taken by the rulers of Bombay and Madras were influenced by Bengal. They could no longer launch attacks on Indian states without first getting Bengal's approval. Five-year terms for directors were established, and each year, one-fourth of the board retires. They wouldn't be able to run for office once more as a result. The directors of the corporation mandated that any correspondence with Indian officials regarding tax, civil, and military issues be made public before British authorities. At the beginning, Sir Elijah Impey ruled over the Supreme Court of Calcutta as its Chief Justice. The judges would originate from the UK. It only had jurisdiction in civil and criminal procedures over British subjects, not Indian nationals. In particular, there appear to be five primary areas to think about when transferring common law to another territory.

- The foundation for the Company's territorial dominance. There are two distinct questions here: (a) The separation between the Company's functions as a political and executive sovereign and as a trading business simpliciter. (b) The practical application of English law to land that has been invaded or ceded.
- An explanation of the term "British subject."
- The disagreement between the Courts and the Corporation regarding the former's authority in executive—primarily revenue—fields and the territorial extent of this jurisdiction.
- Disagreement about the "Crown Courts" and the Company's "Adauiet Courts" respective jurisdictional areas.
- The scope of the Supreme Courts' authority in the Presidencies in comparison to native leaders whose sovereignty was constrained by a treaty with the Company.

Although some Company employees amassed substantial personal wealth, the Company was bankrupt and its shares had fallen more than 60% in 1769. In an effort to restore order, Parliament not only bailed out the Business but also put rules in place. The British Government would also hold the East India Company accountable, in addition to its stockholders. The rules of England, especially those that forbade bribery and corruption, would apply to its servants. The East India Company in India experienced financial failure and upheaval, which led to the creation of the Regulating Act of 1773, 13 Geo. 3 c 63. In actuality, the Act was a collection of incredibly ambiguous provisions that did not address the basic constitutional issues at the root of Bengal's legal crisis. Regarding Indian law and the interactions between Indian authorities, the Company, and Parliament, there was no agreement.

To help Hastings, new Council members were dispatched. But, Sir Philip Francis and these members organised a rebellion against Hastings. As a result, the Supreme Council was never united. Many of Hastings' administrative entities ceased to exist as a result of their arguments. Their conflict with the Supreme Court was the only issue they could agree on.

It was extremely challenging for this newly established Supreme Council and Supreme Court to create new structures in a highly politicised and lucrative environment when they were brought to Bengal to establish order and stop injustice. The Regulating Act was made to deal with problems, but at first, because of its ambiguous and contradictory language, it caused more confusion and allowed dishonest political, financial, and judicial practises to persist.

The Supreme Court was tasked by “the Regulating Act with preventing various Abuses which have prevailed in the Government and Administration... to the manifest Injury of the Public Credit, and of the Commercial Interests of the said Company”¹, The tax system was given to the Supreme Council, which also had control over it. All British subjects in India were expected to get the same level of justice from the Court, which was specifically tasked with ending the provincial councils' unethical behaviour. It was regarded as Bengal's top court of appeal and had jurisdiction over civil, criminal, and ecclesiastical cases in Calcutta. Sadly, authority over a number of matters and individuals was granted to both the Council and the Court.

2. Enactment of the Regulating Act 1773.

- The need for the passing of this legislation sprang from a number of factors. For the first time, the British government took a direct role in running the East India Company by stepping in.
- Robert Clive's two-tiered administrative structure in India was perplexing and problematic for the public. In Bengal, the corporation held Diwani rights, but thanks to this structure, the Nawab also acquired Nizamat powers (judicial and policing rights). The corporation used Nawab as an agent, therefore Nizamat rights were also in their possession. It was just a matter of time until the Nawabs and the Company started exploiting the populace.
- The severe famine in Bengal, which claimed a great number of lives, brought to light the predicament of the people.
- The corporation's financial situation by 1773 and its request for a loan of one million pounds from the British government in 1772 was one of the key motivations in this Act's passage.
- Via a prior charter that it had been granted, the corporation was exclusively given trade rights by the British Parliament. As it grew, it gradually but inevitably started acting like a government. On the other side, the British Parliament was unwilling to accept this stance. Because of this, the corporation believed it was crucial for the Crown to seize control of certain areas in order to curtail its propensity to utilise political influence to get economic rights. There were three presidencies in the nation at the time: Bengal, Madras, and Bombay. These three cities had to be run independently because India's national government was unable to do so. This made it necessary to harmonise how these three municipalities are run. As a consequence, The Regulating Act of 1773 was made by the British government to set rules for the British East India Company.

3. East India Company.

Trading has existed between India and the west since the dawn of time (land route). Yet the Ottoman Turks took control of the old trade routes after conquering Constantinople in 1453. The Europeans were motivated to search for new trade routes as a result, notably marine ones. A European explorer named Christopher Columbus left for India in 1492 but ended up in America. Portugal's Vasco Da Gama made an attempt to establish a new trade route in 1498 by sailing across Africa. Being the first European to travel to India by water, he made history when he arrived in Calicut, Kerala (1498). The Portuguese were the first to build colonies in India. Because of their overwhelming naval might, they were easily able to defend their positions against India's powerful land troops. They were exempt from the influence of the Mughal empire since they were mostly centred in south India. The Dutch people were granted the power by their government to wage war, make treaties, conquer land, and build fortresses when the Dutch East India Company was founded in 1602.

¹ Horn and Mary Ransome, D.B, eds., English Historical Documents, 1714-1783 (London: Eyre and Spottiswoode, 1957), pp. 811-812.

The Timeline of East India Company History.

Timeline	Description
1608	William Hawkins established his factory with royal approval. To discuss sponsorship, he arrived at Jahangir's court.
1611	Captain Middleton received permission from the Mughal ruler of Surat.
1612	In the Battle of Swally, Captain Thomas Best overcame the Portuguese and took control of the Sea of Surat.
1613	Aldworth began a plant in Surat after obtaining Jahangir's approval.
1632	The East India Company set the stage for successful trading after receiving the Golden Farman from the Sultan of Golconda.
1639	After leasing it from the local king, the East India Company built Fort St. George in Madras. Built to safeguard their commerce, this fort
1662	Following his marriage to Katherine, a Portuguese princess, Charles II received Bombay as a gift.
1668	After handing Bombay to the East India Company, Charles II began getting 10 pounds annually. After this tragedy, the Company's headquarters were moved from Surat to Bombay.
1690	To build factories, the East India Company purchased the villages of Gobindapur, Kolkata, and Sutanuti. Additionally, Fort William was built as a defensive fortification.
1717	The British East India Company received permission from the Mughal Empire's Farrukhsiyar to reside and conduct business there through the issuance of a Farman (a trading licence).

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4.Growth of East India Company.

A group of English businessmen founded The Merchant Adventurers in 1599 to pursue trade in the East. The queen gave it permission and the exclusive authority to conduct business with the East in 1600. Captain Hawkins received the imperial farman from Mughal emperor Jahangir so he could establish businesses on the western coast. The Mughal Empire then permitted Sir Thomas Roe to construct factories all throughout it.

The Portuguese gave Bombay to the British as dowry. All claims to Indonesia were renounced in order to settle the conflicts between the British and the Dutch. The English may thrive in the southern climate. At Madras, they started by building the fort known as Fort St. George. Problems began to emerge after the Brits overran Hugli and declared war on the emperor. They failed miserably. Here is where they made their first discovery. While they waited for their turn, they continued to depend on charm and honest pleading. In 1698, Fort William was built and Calcutta was founded. Bombay, Calcutta, and Madras all quickly became major commercial centres.

By that point, Dupleix's French army had already arrived in India and was interfering in the affairs of the local rulers with the help of their well-equipped army. In 1742, a conflict between France and England engulfed Europe.

Nasir Jung, the nizam's son, took the throne in 1748. The nizam's grandson, Muzaffar Jung, challenged him. In a situation identical to this one in the Carnatic, Chanda Sahib was plotting to have the nawab Anwarudeen assassinated. The French were able to effectively hold both of the insurgents' positions with the assistance of both militants, resulting in the deaths of Anwarudeen and Nasir Jung.

It is understandable that the British soldiers, led by Anwarudeen's son Muhammad Ali, stood by the victims. The fights were ultimately won by the English side because to Robert Clive's brilliant planning and outstanding generalship. Ultimately, the French called Dupleix back from India in line with their agreement from 1754. Ultimately, the French were totally annihilated at the Battle of Wandiwash in 1760. As a result, the English remained India's sole rulers.

²VAN MEERSBERGEN, G. (2017). Writing East India Company History after the Cultural Turn: Interdisciplinary Perspectives on the Seventeenth-Century East India Company and Verenigde Oostindische Compagnie. *Journal for Early Modern Cultural Studies*, 17(3), 10–36. <https://www.jstor.org/stable/90020548>

Because to the farman that the emperor granted them, the British were free to undertake unlimited commerce in Bengal. Also, they were not compelled to pay dastaks to transport these goods. Bengal experienced monetary loss as a result of the staff's abuse. Siraj-ud-Daulah, the grandson of Alivardi Khan, ruled in 1756 and commanded that English and Indian traders do business on an equal footing. The situation grew worse when the Brits revolted and erected their fortifications. Mir Jaffar and Rai Durlabh's treason led to Siraj-ud-deceitful Daulah's defeat at the Battle of Plassey in 1757. In this way, the Brits accumulated a tonne of fame and wealth.

Since Mir Jaffar was unable to fulfil their pledge to the Brits to pay tribute, Mir Qasim took over Mir Jaffar's position. He was intelligent enough to know that to fight the British, you required an army and money. In addition, he did away with all import and export duties. Because of their rage, the British were able to defeat Mir Qasim in the Battle of Buxar in 1764.

5. Patna Case.

The Patna Case is frequently cited as one of India's most fascinating historical episodes. The Patna Case was carried out between 1777 and 1779. Because it revealed the complexity of the nation's legal system at the time, the Patna Case was a landmark development in Indian legal history. This case made it clear that there was a disagreement and dissatisfaction between the Supreme Court and the Supreme Council. Based on the lesson that was drawn from this particular case and used as the foundation for such adjustments, the operation of the legal system may undergo further restructuring or reorientation in the future.

5.1. Fact of the case :

- In Kabul, Shahbaz Beg Khan was born. Upon arriving in India, he enlisted in the Indian Army. where he worked until he retired. After that, he got rich, moved to Patna, India, married Nadirah Begum, and started a family.
- Since then, his Afghani nephew Bahadur has been living with him. He also made it clear that he desired to adopt Bahadur Beg as his own child, make him the only inheritor of his fortune, and then pass away. He passed away in December 1776, though, so he never got to see his dream come true.
- The estate left by Shahbaz Beg resulted in a court dispute between his nephew and the person who was supposed to be his heir. Each of them took something from the dead person's things. As the dead person's adopted son, Bahadur Beg petitioned the Provincial Council in Patna, claiming ownership of the deceased's possessions. He also asked the court to make sure that the widow of the dead man's property is not abused. Mufti and Kazi, who are in charge of Mohammedan Native Law, are looking into this property because Nadirah Begum told them to.
- According to three records, Nadirah Begum, the widow of Nadirah Begum, maintained her claim to the land that are as follow :
 - Dower – Deed (Meharnama)
 - Acknowledgment (Ikrarnama)
 - Gift – Deed (Hibanama)
- The Patna Provincial Court ordered the Kazi and Mufti to collect and secure all of the property until a final verdict. After learning the facts of the case, these representatives of the local law had to inform the court of the respective parties' allegations.
- According to what the Provincial Council said, the Kazi and Mufti went to the home of the person who had died and took all of his things before making an inventory.
- Nadirah Begum was mistreated throughout the inquiry, and as a consequence, she fled her home and sought refuge in a "Dargah."
- In this case, the way the police handled the situation was terrible.

When they are done with their investigation, they report back to the Patna Council. Even though there was evidence that the widow's agent (the lawyer) didn't give the dower deed in this way, no one could argue with According to Bahadur Beg, the dead had dowered Nadirah Begum with the sum of Rs.1200/- during the course of his lifetime. They proposed splitting the estate in half, with each half receiving one-fourth of the total. According to Islamic law, three of these pieces should be given to Bahadur Beg as a tribute to his father in India, while the fourth should be given to Nadirah Begum. The Patna Provincial Council agreed with the Kazi and the Mufti that the land should be split in the same way. Even though the Provincial Council said no, the Governor-General and his Council, as well as Nadirah Begum, were interested in the Sadar Diwani Adalat in Calcutta. For a long time, interest rates didn't change much. Later, the dowager sued Bahadur Beg, Kazi, and Mufti in court for assault, battery, illegal imprisonment, and other fake injuries. She asked for Rs. 6 lakhs in damages. They were all charged with something.

5.2. Issues of the case :

- Whether or not Bahadur Beg, who lived outside of Calcutta, was exposed to the Supreme Court's administration.
- Whether or not law enforcement officials could be sued or prosecuted for their actions during their legal authority.

6. Judgment of the case :

The court reprimanded the Kazi and the Mufti for giving a false account of the events. The processes followed by the board were not made public from the beginning all the way through to the finish. This is the first time that witnesses have not been interviewed under oath, and there have been no preliminary hearings held. In other words, the officers were tried for something other than what they had done in the course of the performance of their official tasks, which had an unmistakable influence on both the officers and the workers who were employed by the organisation.

The dowager was given three lakhs of rupees in damages by the Supreme Court, which determined that the crime was egregious.

7. Analysis of the case:

The Patna saga has brought to light the flaws in the Indian legal system, but it has also shown how ineffective the Sadar Diwani Adalat in Calcutta was because the Senator Generals and other members of their group, who made up the court, were preoccupied with other tasks and seeking revenge for rivalries they had with one another.

It was determined that the court had jurisdiction over Mohammedan local law enforcement officials because they were under the organization's administration. It first appears to be a logical inference to make from this viewpoint. Court decisions on this issue vary, but Bahadur Ask employed a man named Ward who was an agriculturist with land income and so a member of the workforce. An agricultural landowner with land income was required to be managed by the organisation by the Supreme Court's order, and as a result, came under its jurisdiction. It was awful and horrific. Due to this incident, the organization's ability to generate revenue suffered throughout Bengal, Bihar, and Orissa. But, the death of the Act of Settlement in 1781 eliminated the organisational flaws of the unrivalled court and premier committee.

8. Conclusion.

The apprehensive crown made a move to exert more control over the East India Company via the Regulating Act of 1773. The British were gradually coming around to Adam Smith's free trade ideology because they disliked the Company's monopolistic control over commerce with India. The Company's officials also brought huge amounts of money, which infuriated the British political establishment. Because of this, Parliament believed that the Regulating Act of 1773 was necessary when the Company's finances were threatened by Wellesley's disputes. The created system was not supported by any important administrative concepts. There was no central authority in spite of the hierarchy. Conflicts between the governors general and their councils were common. In legal history, there is a case known as the Patna case. It is admirable in this situation that a legal representative's authority or responsibility may only be used or accepted in accordance with those limits.

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