

### **CHAPTER 3: THE GROWTH AND EVOLUTION OF ADMINISTRATIVE SPACE IN PROVINCIAL BENGAL (CIRCA 1757-1857)**

#### **INTRODUCTION:**

The English East India Company operated primarily as a trading agency in India up to the mid-eighteenth century. After this, following continuing frictions with Nawab Siraj-ud-daula (the provincial governor of Bengal, Bihar and Orissa), the Company finally won a decisive victory at the Battle of Plassey in 1757 under the leadership of Colonel Robert Clive. In 1764, the further ground was gained by the East India Company with another victory over the rebellious Nawab Mir Qasim at the Battle of Buxar. These developments ensured a colossal strengthening of the Company's position in the region. In 1765, the East India Company was granted the 'Diwani', or the sole rights of agricultural revenue collection, for the provinces of Bengal, Bihar and Orissa by the Mughal emperor, Shah Alam. This chapter discusses how for the logistics of revenue collection and administering justice in this vast tract of land, the territory was divided into revenue districts by the Company. The allocation of power underwent numerous shifts between 1772 and 1786, continuously moving between attempts to centralise and decentralise revenue administration. It was not until 1786 that the administrative apparatus was finally substantially decentralised and the Collector invested with a huge amount of administrative power. It was also in 1786 that a large number of districts – 24 in all – were delineated again, based on earlier Collectorships invested with a considerable amount of administrative power. The 'District' thus became one of the most significant territorial units of British revenue administration machinery, and later on – after the assumption of full governance of India by the British Crown in 1858 – it also served as the basic political-administrative unit for imperial governance itself. This chapter also points out how the domain of governance, along with spaces directly or indirectly related to

it, clearly one of the key instruments through which the principles enjoying formal authority attempted to establish mechanisms of controlling the other.

### **3.1. THE HISTORIOGRAPHY OF THE CONQUEST OF BENGAL<sup>1</sup>**

In his famous book, *The Expansion of England*, published in 1884, the British historian J.R Seeley was the first to argue that “acquisition of India was made blindly.” He claimed that “nothing great that has ever been done by Englishmen was done so unintentionally, so accidentally, as the conquest of India.”<sup>2</sup> Seeley characterized the English company’s wars of conquest in India as entirely defensive.<sup>3</sup> In his analysis, the company’s “first step to empire” was made for the sole purpose of protecting its factories from Indian or French aggression. More specifically, Seeley asserted that the conquest of Bengal sprang from “the evident necessity of protecting Fort William and punishing the Musalman Nawab of Bengal Siraj-ud-daula, for the atrocity of the Black Hole. “However, even Seeley, the father of British imperial history and a confirmed apologist for empire, did not deny that in some instances the English in India was “hurried on by mere rapacity.”<sup>4</sup>

Seeley’s interpretation of the conquest of India was typical of late nineteenth-century British historical writing. Historians writing at that time, and in the early twentieth century, usually represented the eighteenth-century conquest of India as a defensive response to French commercial and military competition, and to the anarchical political situation in India which developed with the decline of the Mughals. Although they were obviously aware that the English East India Company was a trading company, these historians interpreted events in basically political terms, ignoring or overlooking the company’s activities and the role of the private trade of the company’s employees. This is the approach taken in the works of such well known British

historians as Henry Dodwell, P.E. Roberts, and S.C. Hill, as well as the French historian Alfred Martineau, all of whom were writing in, or around, the first quarter of the present century.<sup>5</sup> There is also a more recent exponent of what may be called the defensive interpretation of British expansion of India. For example, the British historian Philip Mason (pseudonym Woodruff), a former member of the Indian civil service, has argued that the British takeover of Bengal was defensive insofar as the company's employees embarked on a military course in order to achieve two limited objectives: to expel the French and protect their trade. Unfortunately, according to Mason, "they had not realized it must bring responsibility."<sup>6</sup>

Another defensive interpretation was presented in 1960 by the American historian, John S. Galbraith. In developing his theory of the "turbulent frontier", a concept which he applied to the entire empire, Galbraith argued that the English were faced with the reality, in eighteenth-century India, where disorder and war were widespread, that the only way the security of Bengal, Madras, and Bombay could be certain was by expanding the company's and Britain's political and military presence inland, despite the fact that the territory acquired was not always of commercial importance.<sup>7</sup>

The British historian Percival Spear also interprets the conquest of Bengal in partially self-protective terms. In 1961 he appealed that, at the time of Plassey, Clive entertained "no thought of annexation and conquest." Clive was only concerned to "safeguard the company's interest, which meant arranging for a friendly government in Bengal and Bihar." But, Clive was also concerned with getting rich, and after Plassey, says Spear, "financial greed and public policy so intertwined themselves as to compass the ruin of Bengal."<sup>8</sup> Thus Spear attributes the conquest, at least in part, to the servants' headlong pursuit of personal wealth in trade, appointments, presents, and bribes. In a biography of Clive, Spear notes that in 1760; Clive proposed to the

British government that it annex Bengal because of the financial advantages of such a move. However, says Spear, Clive's "abiding object was to limit rather than extend the company's dominion." Spear also claims that even under Cornwallis, British India was a "deliberately defensive and limited state."<sup>9</sup> This is true in theory, if not in practice since Pitt's India Act of 1784 did forbid the pursuit of "schemes of conquest and extension of dominion in India."<sup>10</sup>

Pamela Nightingale has recently provided an account of the conquest of Bengal that is similar to Spear. Written in 1970, her book deals primarily with the British on the coast of India, but Bengal is also discussed. She asserts that the company initially became involved in politics in Bengal in "self-defense." Then, after the company became entangled, "the weakness and chaos of the local political scene made retreat difficult, even if it had been desirable." She does not overlook the fact that the servants on the spot "used their new power to enrich themselves shamelessly."<sup>11</sup> However, her analysis implies that this was more of a side effect than an important element in the defeat. In the case of the company's territorial expansion on the west coast of India between 1784 and 1806 and Nightingale stresses the supreme importance of the economic motive and private initiative. She contends that here expansion was an aggressive move to take over new territory for economic gain. She notes that previously, it had been supposed that the English company's annexation on India's west coast was a response to the French threat; however, her founding does not bear this out. Even after 1784, and the Governor-General ship in Bengal, the British on the spot in western India continued to act with considerable independence. In consequence, the company's territorial expansion on the west coast "was a response chiefly to local conditions which were restricting the commercial interests of private British traders."<sup>12</sup> The expansion that Nightingale describes can well be regarded as sub-imperialist, although she does not use the term. Sub-imperialism refers to the independent

activity of the company's servants on the spot, engaging in political-military intervention and territorial expansion to gain new advantages, usually economic, for themselves, some other interest group, or even the company without the direct approval or authorization of the authorities in Britain.<sup>13</sup> In 1973 Eric Stokes used the concept of sub-imperialism to help explain the conquest of Bengal. In Stokes's opinion, the earlier explanation of British conquest was probably right in appealing that the company was forced to begin the seizure of Bengal to defend existing interests. However, he disputes the further claim that after inadvertently becoming the de facto rulers of Bengal in 1775, the British were unwillingly dragged forward to conquer the province outright, to defend their position from hostile Indians aided by French mercenaries. This, in Stokes's view, overlooks the sub-imperialism of the company's employees. Thus the Plassey revolution which brought Mir Jafar to the Nawabship as a puppet of the company, was the beginning of the British experiment in "private profiteering on a grandiose scale and it opened the floodgates." Stokes points out that the consensus of the court of directors too much of this activity was obtained based on the contention that territorial expansion would provide the revenue to support the cost of running the company's settlements in India, and would also finance the yearly shipment of Indian merchandise to Europe. However, in reality, the company very quickly began to lose money, and a large proportion of Bengal revenue ended in the hands of the company's servants.<sup>14</sup>

The emphasis positioned by Stokes on the monetary motive and sub-imperialism of the company's servants also appears in the work of American historian Holden Furber, writing in 1948, the conquest of Bengal was primarily an endeavor to gain new economic advantages rather than protect existing ones. According to Furber, conquest grew "from forces within eighteenth-century capitalism...which could not help but leave Britain mistress of India." In the

circumstance of the whole second half of the eighteenth century, “British power in India grew out of the striving of an increasing number of Europeans for economic security through imperialism.” In Clive’s time, time, “a few men fought for large rewards,” while by the 1770s and 1780s, this “had given way to an era when many men scrambled for what each regarded as a competence according to his lights.”<sup>15</sup> Subsequently, Furber changed his thesis that economic sub-imperialism was the principal force behind British expansion in Bengal and elsewhere. In 1976 he argued that “it would be incorrect to regard the gains...licit as well as illicit of the English company’s servants in India as the leading force behind the expansion of British power. They were comparable rather to a catalyst that sets up a chain reaction.”<sup>16</sup>

Most historians acknowledge the important role of the company’s servants on the spot, and their wish not only to guard existing economic interests but also to obtain new. P.J. Marshall proclaims that there was undoubtedly an important linkage between economic gain and political intervention in the period.<sup>17</sup> He argues that it is primarily the activities of the servants on the spot and not the court of directors in England, in which the economic aspect of British imperialism in eighteenth-century India is most visible.<sup>18</sup> Marshal notes further, however, that, after establishing a motive for expansion, one must also ask why the British were able to embark on imperial expansion in India. The answer is that by the early eighteenth century, the major European powers were far superior to any Asian government in terms of state organization and military technology. Marshal emphasized the importance of economic gain, he also argues that “if political deliberation had been absent, the British would not have prepared themselves with the means which made territorial expansion possible.” However, it is often difficult to entirely separate political considerations from economic ones, and in the case of Anglo-French rivalry, economics and politics were inextricably intertwined. Nevertheless, in Marshal’s view, early

British expansion in India does not conform to a particular stereotypic theory of economic imperialism. The sub-continent was not the prey of “mercantilist minded ministers” in England. And Britain's involvement could not yet be described as “an industrial society seeking markets for its exports or profitable outlets for investment.” He suggests it was a mix “of the new and the old.”<sup>19</sup>

With specific reference to the activities of the English company's servants on the spot, Marshal argues that ‘territorial empire and commercial hegemony, with all their consequences for British and India, were to grow out of the pursuit of private fortunes in Bengal.’<sup>20</sup> Without a doubt, the company's overthrow of Siraj-ud-daula and his successors resulted in substantial advantages for many individual employees of any company. And as the servants' awareness of the possibilities open to them presents, appointments and trading opportunities increased, a desire to interfere in local politics grew. Also, one can see how, after 1757, rapidly increasing private trade led to more confrontations with the Bengal Nawabs. More private trading by the company's servants led to an increase in the quantity of commodities that was to be duty-free. There was also displacement of the local Indian merchants and the growing danger that Europeans would penetrate the Bengal government trade monopolies, not to mention the fact that the activities of the Bengal servants led directly to the company's bankruptcy in the early 1770s.<sup>21</sup>

Despite the obvious importance of the private activities of the company's servants in the undermining of the Bengal government and the subsequent annexation of the province by the company, Marshal argues that other factors were of, at least, equal importance through the conquest period of Bengal Nawabs were regularly Nightingale to demands for the company itself which were another than the importunities of the Bengal servants as private individuals. In Marshal estimation, although the company's employees' unabashed scramble for personal gain

was a significant contribution to the destabilization of the Bengal government, “their activities are not a complete explanation of this instability nor can they be seen as the conscious architects of the new British order which replaced it.”<sup>22</sup> However, as Marshal is undoubtedly aware, to distinguish between the company’s demands and the servants’ demands is, at times, a very subtle exercise. The servants’ interests and the companies were often interconnected.

Interestingly enough, J.D. Nichol, in contrast to Marshal and Furber, has isolated sub-imperialism as the leading force in the conquest of Bengal. In his view, although the conquest was clearly of the interaction of the number of historical developments, “the central factor involved was the sub-imperialism of the servants, working within the framework of the trading corporation.”<sup>23</sup> Nichol notes that servants in Bengal were primarily concerned with acquiring private fortunes, with which they could return to England and retire. If these fortunes, which were usually based on private trade, were thought to be in jeopardy, the company’s servants did not hesitate to take advantage of their position with the company to protect their interests. In some instances, this included involvement in local politics, and the result was political and territorial control by the company over Bengal. Nichol says that four preconditions were obligatory for sub-imperialism to be fruitful. First, it is necessary for the company’s servants to be integrated to some degree in the local government hierarchy and for the government to be unstable enough to be overthrow internally. Second, the company’s trade with Bengal must have reached a stage it was crucial to the province’s economy. Third, the overseas business of the sub-continent and Bengal needed to be in a state of “long term decline.” Finally, the war between the various powers in Europe had to be carried to India. This last precondition served to arm the sub-imperialisms as well as provide them with the excuse that their sub-imperialism was being

conducted for reasons of “national and corporate interest.”<sup>24</sup> In Nichol’s view, then it was economically inspired sub-imperialism, a poignant strength behind the annexation of Bengal.

Other works that does not oversee the private enterprise of servants on the spot, but also introduces a psychological element to the analysis, is N.C Chaudhuri’s biography of Clive. Choudhuri, a litterateur, not a historian, has written a literary rather than a scholarly work, in which he argues that the company to a course of action for the simple reason that they stood to gain personally. The British Indian Empire, especially in the early years, was created by a succession of faith accomplish carried out by the men on the spot.<sup>25</sup> Not surprisingly, Choudhuri points to Clive as the essential individual in the early period. It is here that he introduces a psychological element to his interpretation. According to Choudhuri, the significant aspect of Clive’s personality was an “irrepressible urge for self-assertion.”<sup>26</sup> He argues that to interpret this urge for self-assertion in economic terms is “an inversion of historical logic,” which puts “effect before cause.” Never, in Choudhuri’s view, was an empire brought into being only because of economic motives. The British Indian Empire arose because of ‘ a far stronger urge in man—that of self-assertion.’ The reason that financial incentives appear to be part of this urge is “because making money is the simplest, crudest and most easily understood form of self-assertion.”<sup>27</sup> Probably more precise to say that making money is, even in this case, not a manifestation of self-assertion, but simply a means to an end, such as security, status, and prestige. The reason Clive and his fellows pursued economic gain was not because of a need for self-assertion but because it is the means for achieving a multitude of different ends in most societies.

Additional psychological explanation of the subjugation has been provided by the former British cabinet minister, John Strachey. He argues, rather speculatively, that one can “think of the decision to attack Bengal...as marking the moment in history when a daemonic will to conquer

and to rule seized the British, an imperial will which possessed them for the next two centuries.”<sup>28</sup> He centers his claim on the fact that Clive and Watson set out from Madras for Calcutta in December 1756 at the height of the Monsoon season. To substantiate such an argument; however, Strachey is cautious to note that there have been times throughout history “when the motives of direct personal enhancement, acting forcefully upon a few key figures, has been important’ and the conquest of Bengal “was pre-eminently one of these moments.”<sup>29</sup>

Strachey and Chaudhuri points to the prominence of the economic component without interpreting the conquest in strictly economic terms. However, as we have seen, it is Marshal with his discussion of politico-strategic factors, which have expounded most on the non-economic motives for conquest. It is interesting to note that Marshal’s view on British expansion up the Ganges beyond Bengal, or out into central India, is a return to the idea of empire as a defense against local political instability. He asserts that in the case of the annexation of Oudh, the earlier historical works that focus on countering the French threat and political turmoil still appear to be the most accurate. In Marshal’s view, after the conquest of Bengal, the company’s ‘political frontier’, maintained by the collection of revenue and also duties, started to move more rapidly than the ‘true economic frontier’ of commerce and trade.<sup>30</sup> Thus, he admits that the annexation of Oudh had an “economic dimension”; however, he claims that there were real limits on the ability of economic considerations to “influence politics.” The British were able to exploit trade opportunities in Oudh, and its autonomy was already seriously undermined by its close links with the company that began after the battle of Buxar in 1764; however, although British traders served to destabilize Oudh even more, the annexation of the region in 1801 was not their doing. In Marshal’s view, the takeover occurred “not so much because of developments in Oudh as because of developments in the mind of the Governor-General.”<sup>31</sup>

An Indian historian, Rudrangshu Mukherjee, has seriously questioned this interpretation. In his view, marshal's analysis "makes irrelevant the pressures and priorities of colonialism, and it ignores the fact that even before Wellesley's departure for India, Dundas...was convinced that the time was ripe for an expansion of British India."<sup>32</sup> Towards the conclusion of the eighteenth century, Dundas was emphasizing the requirement of maintaining a source of revenue in India to be used for purchase Indian goods for export to Europe. Mukherjee further argues that it was British commerce as well as British demands for subsidies and British extortion in Oudh that were directly responsible for Oudh's hopelessly inadequate government. As a result, that poor government, which was the justification for the British takeover and the backbone of the "politico-strategic argument," was inseparably linked to the revenue and commercial demands of British imperialism." By the 1780s, the economic and political elements of British involvement in Oudh was already hopelessly interconnected, and "an advance of trade and empire was immanent in the logic of absorbing Awadh into the capitalist system."<sup>33</sup> Although Rudrangshu Mukherjee's article deals specifically with Oudh, his approach has a much wider application and is relevant to any discussion of the motives for the conquest of the Bengal itself.<sup>34</sup>

Like Rudrangshu Mukherjee, other Indian historians, such as Ramakrishna Mukherjee, also interpret the conquest of Bengal, and the rest of the sub-continent, in entirely economic terms. However, Ramakrishna Mukherjee's approach is a simple economic deterministic interpretation that is much less rigorous than the approach taken by Rudrangshu Mukherjee. Ramakrishna Mukherjee makes no distinction between the motives of the court of directors at home and the employees on the spot. He disregards any idea of sub-imperialism, entirely overlooking any evidence that suggests that the servants on the spot were less cautious and acted with considerable independence from the directors. Nor does he allow for any change in motives over

time. Mukherjee argues that the all-pervasive aim of the English East India Company “as representatives of merchant capital” was to “usurp political power over India for their total exploitation.”<sup>35</sup> To support this assertion, he notes that as early as the end of 1687 the company chairman, Sir Josia Child, and the court of Directors told their servants at Madras to “establish such a politic of civil and military power, and to create and secure such a large revenue, English domain in India for a long time to come.”<sup>36</sup> Apart from this and a few other letters, Mukherjee does not provide much evidence to support his argument. Nevertheless, he insists that, by the end of the seventeenth century, the idea of conquering India “as the logical culmination of the mercantile policy of the merchant bourgeoisie” was present in the minds of the company’s directors and its servants in India, and “it came out directly when any suitable moment for executing such a task became apparent.”<sup>37</sup> From Mukherjee’s perspective, a perspective in the Marxist tradition, the British conquest of Bengal was, quite simply, the natural “consummation of the eternal desire of merchant capital.”<sup>38</sup>

Immanuel Wallerstein also characterizes British conquest in India in entirely economic terms. In a more sophisticated analysis than Ramakrishna Mukherjee’s, he argues that the conquest of Bengal and India began in the mid-eighteenth century because the English and the French had, by then, perceived it as “worth the efforts.”<sup>39</sup> Wallerstein<sup>40</sup> puts the conquest of India squarely in the context of the global struggle between the French and the English for world-hegemony, which lasted from 1689 to 1815. According to his world system model India, before 1750, was part of an “external arena” because the trade between Europe and Asia remained superfluous to the maintenance and running of the European world-economy. In many parts of the world, amid 1600 and 1750, the core states of Europe were “dragged bit by bit into becoming colonial or semi-colonial powers,” incorporating areas such as the Americas into the European world-

economy. Over this same period, the Asian trade gradually developed more significant to Europe, the conquest of Asia began, moving most rapidly in the more commercially attractive regions of Indonesia and India. Over the next sixty-five years, England outdistanced France industrially, economically, and military, becoming the undisputed leader in world trade and the governing power in India in the nineteenth century.<sup>41</sup> Thus, according to Wallerstein, then, the occupation of Bengal came about simply because the British perceived the economic advantage in it, and he makes no distinction between the court of directors or the sub-imperialists in India. He does not oversee the French cause; however, in contrast to Marshal, it is categorized in entirely economic terms.

Some support for Wallerstein's argument that conquest began when it did because the English finally perceived it as "worth the effort" can be found in K.N. Chaudhuri's critical work regarding the English East India Company, though Chaudhuri, unlike Wallerstein, is cautious to distinguish between the servants on the spot and the court of directors. Chaudhuri's work may also serve to answer the question posed by Marshal, and first raised by Furber, Glamann, and Bhattacharya, as to whether or not the first half of the eighteenth century was "a period in which pressures were building up which could only find an outlet in the subjugation of territory?"<sup>42</sup> K.N. Chaudhuri has contended that by the early to the mid-eighteenth century, the company could not grow much more within the bounds of the policies advocated by the court of Directors. At the turn of the century, "the company's settlements and factories in Asia had reached the limits of possible expansion in terms of the amount and number of commodities for which the company could find a market. A trading organization that included within it the Arab world, the Persian Empire, Mughal dominions, southeast Asia, and China did not leave much room for further expansion. The situation was approaching the point of equilibrium." After 1740 the

company's servants began to intervene in local politics introducing " a new element to the previous range of policy consideration which eventually entirely altered the nature of the company's presence in the East."<sup>43</sup> Chaudhuri makes clear that although the servants on the spot, in the 1740s and 1750s, were adding a new dimension to the company's activities, and there was a certain pressure on the company's trading system to expand by whatever means, the Court of Directors in London continued to emphasize the fact that the company was first and foremost a trading body. Even after Clive's victory at Plassey, the court of Directors continued to be extremely hesitant about the company's political expansion in India.<sup>44</sup> One of the recent contributions to the debate on the dynamics of British overseas expansion has come from P.J. Cain and A.G. Hopkins. They have shifted the emphasis away from sub-imperialism and developments on the periphery, and also have doubts about the adequacy of purely economic explanations. They believe that most studies of British expansion do not accurately characterize "the relationship between the British economy and the British presence abroad."<sup>45</sup> Because their approach is so broad in its emphasis, it does not exclude other explanations concerned with particular cases of British expansion that rely on historical evidence or emphasize non-economic factors.<sup>46</sup> Cain and Hopkins claim then that British expansion between 1750 and 1914 can be understood best 'by linking it with the process of modernization in British.'" Specifically, they assert that the 'various phases of the expansion of Britain's presence and power abroad were narrowly linked with the growth of the domestic economy, the shifting balance of social and political forces which this development entailed, and the varying intensity of Britain's economic and political rivalry with other powers."<sup>47</sup> The conquest of Bengal must not only focus on the sub-imperialism of the company's servants, which is of course, very important, but must also take into account the nature of the economic relationship between England and India, especially

Bengal, prior to and during the period of conquest. Thus, even though the court of Directors was generally against territorial expansion, other economic pressure, and the Director's concern with seeing the company prosper, May have contributed to the conquest.

Due account must also be taken of the context of an expanding world capitalist economy, dominated by Europe, within which the English and the French were struggling for supremacy. By the mid-eighteenth century then the English East India Company found it increasingly difficult to expand any further commercially, without becoming a territorial power in its own right. That is not to say, however, that, in the case of the individuals involved, they were always operating based on economic gain through political intervention and territorial expansion. This is especially true of the court of Directors, who, although concerned with the prosperity and economic well-being of the company, was generally opposed to becoming a territorial power. But, once the man on the spot, motivated in the aggregate by personal economic aggrandizement, was provided with the military strength to intervene in local politics and overthrow local princes successfully, the desire for personal gain combined with the interests and needs of the company drove them inexorably forward in Bengal until they had defeated the local government and secured it for themselves.

### **3.2 GROWTH AND EVOLUTION OF THE ADMINISTRATIVE SPACE IN BENGAL**

British India in 1818 comprised three Presidencies: Bengal, Madras, and Bombay. The Bengal Presidency or, officially speaking, the Presidency of Fort William embraced (i) the districts of Sylhet and Goalpara in Assam, (i) the present East and West Bengal, except for Darjeeling district, the northern half of Jalpaiguri, ad a few other territories, and of the Dutch. French and

Danish settlements, (iii) the whole of Bihar, including Chotanagpur, (iv) the eastern districts of Orissa, (v) the present Uttar Pradesh, excluding Oudh, (vi) the tracts round about Delhi, and (vii) the Saugor and Narbada territories, just received from the Bhonsle. Within the next forty years, the Presidency's frontiers were extended by the following major territorial acquisitions:

- (a) Arakan, Tenasserim and parts of Assam, ceded by the king of Burma in 1826;
- (b) the principality of Cachar and the territories of the Raja of Jaintia (in Assam), annexed in 1832 and 1835, respectively;
- (c) Darjeeling, presented by the Raja of Sikkim in 1835, and the strip of land immediately south of it, ceded in 1850;
- (d) Sambalpur and the estates of Jhansi and Nagpur, annexed in 1849 and 1853, respectively; and (e) the dominion of the Nawab of Oudh annexed in 1856.

Besides, there were minor accretions from some of the foreign settlements.<sup>48</sup> Finally, Punjab, including the North-West Frontier Province-annexed during 1846-49<sup>49</sup> and Pegu or Lower Burma conquered in 1853, was administered, more or less, as appendages of the Bengal Presidency. The Presidency of Fort St. George or Madras stretched from the borders of Orissa in the north to the Tinnevelley district in the south and also included Malabar and Canara on the west coast and the ceded districts of Beliarly and Cuddapa<sup>50</sup> in the interior. To these were added in 1834 and 1839, respectively, the principality of Coorg and the nawabship of Kurnool. The Bombay Presidency, which had-previous to our period -encompassed the town and island of Bombay, Salsette and the islands in Bombay harbour, Bankot in the Southern Konkan, Surat and certain portions of Gujarat, was enlarged in 1817-18 by the addition of extensive territories, obtained from the Peshwa in Gujarat, Khandesh and the Deccan (including the Konkan), thus

making a total area of about 65,000 square miles. After 1818 it was further reinforced by the acquisition of Aden (1839), Satara (1848), Bijapur (1848), and a few lesser tracts.<sup>51</sup>

To shape the government of these vast and varying possessions was no very easy task. British administrators, therefore, adopted from the beginning what appeared to be the wisest and safest course, namely, avoiding, as far as possible, a sharp departure from the established practices. Such changes as had to be introduced were, for the most part, slow and cautious. Any innovation was almost invariably preceded by discussion and investigation. The keynote of British policy during this epoch seems to have been to maintain a balance between the respect for traditional institutions and the desire to import western administrative ideals. In particular instances, time-honored institutions were swept away in the interest of the good of the governed, for the generation shared Lord Lawrence's opinion: "In doing the best we can- for the people, we are bound by our conscience and not by their".<sup>52</sup> The good of the governed, according to "our conscience," as well as expediency, demanded that due stress be laid on local or customary differences.<sup>53</sup> Uniformity for the sake of uniformity was more often than not disregarded. On the other hand, paradoxical as it may appear widely different functions were joined together in disregard of the principle of separation of powers.<sup>54</sup> For all that, the administration, in some respects, showed a gradual improvement as years went by And after the discontinuance of the Company's trade by the Charter Act of 1833, increased attention was paid naturally to the problem of governance.

The Governor-General, who had direct charge of the administration of Bengal, was styled the Governor-General of the Presidency of Fort William in Bengal By the Act of 1833 he became

the Governor-General of India. The Governor-General in Council was the executive, legislative, and commercial head of the Company's Indian possessions in general and of the Bengal in particular. His executive duties embraced the management of the public revenue, the superintendence of the general finances of India, and of the army, and the infinite variety of miscellaneous business which falls under the cognizance of the executive authority in every government".<sup>55</sup> In his legislative capacity, he not only framed regulations applicable to the Bengal but had the right of veto over the legislation of the subordinate Presidencies, which, however, was in practice little exercised. As chief representative of the Company in its commercial capacity, he had until 1833 the power to superintend its commercial concerns in Bengal, and he exercised a general control over the provision of the investment in Madras and in Bombay, besides giving "a considerable degree of attention to the affairs in China", Benkulen, the Prince of Wales Island, the Cape of Good Hope and St. Helena.

For purposes of local administration, each of the Presidencies was divided into districts-whose number varied from time to time. In 1829 there were sixty-six districts in the Bengal Presidency. These were under European officers, who belonged to the Company's covenanted civil service. In the regulation districts, as distinguished from the non-regulation ones, which had a special type of administration, there were, as far as the Bengal was concerned, at first two district officers, the judge-magistrate with judicial, magisterial and police powers, and the collector with fiscal powers only. But under Regulation IV of 1821, collectors of land revenue could, in certain cases, be empowered to perform the duties of a magistrate or joint magistrate, and likewise, magistrates and joint-magistrates could be employed in the collection of revenue.<sup>56</sup> Further, by a regulation of 1831, civil judges were invested with the duties of sessions and relieved of their magisterial functions, which were transferred to the collectors.<sup>57</sup> The offices of magistrate and

collector continued to be in the same hands till 1837 when they have separated again, except in the three districts of Orissa and in the North-Western Provinces. In Bombay and Madras, the magistrate collector held the charge of the district throughout the period. The distinctions arising from the absence of uniformity were sometimes carried to absurd lengths. Thus in 1858, there were in Bengal, Bihar, and Orissa 25 magistrates, 25 collectors, three magistrates and collectors, eight joint-magistrates, and deputy collectors holding independent charge of districts, and one magistrate and jail-superintendent.<sup>58</sup> Immediately below the district officers, there were at this time in Bengal European assistants, as well as joint-magistrates and deputy collectors (other than those holding the charge of districts), in Madras sub-collectors and in Bombay one sub-collectors and several assistants.<sup>59</sup> They were all members of the covenanted service. But Regulation IX of 1833 provided for the recruitment of uncovenanted deputy collectors in Bengal, for which Indians were declared eligible. In 1818 there were in Calcutta a revenue board, a board of trade, a military board, a marine board, and a medical board. In 1819 the board of trade's functions was split up by the creation of a separate board of customs, salt, and opium, but after 1833, the board of trade was abolished. Regarding the system of administration by boards, it was uniformly stated before the Select Committee of the House of Commons in 1832 that they operated "as clogs upon business," which could be better performed by individuals.<sup>60</sup> An important innovation introduced in 1829 was the division of the Bengal Presidency into a number of administrative units (divisions), higher than districts, each being placed under a commissioner of revenue and circuit.<sup>61</sup> The commissioners were directly subordinate to the board of revenue, and their preliminary function was to supervise the work of the collectors. In 1831 they were relieved of their circuit or sessions to work, now transferred to the civil judges, but they had to do police

work in addition up to the end of the period. In 1858 there were fourteen commissioners of revenue and police in the Bengal Presidency.<sup>62</sup>

During the period of Cornwallis's Governor-Generalship, important changes were made in all branches of administration, including the judicial system. On 3 December 1790, he recorded a long minute on the subject of criminal justice. He drew up a body of regulations that were considered by the members of the Council, and the Code was approved and put into force. The basic principles underlying the Cornwallis Code of 1793 were the divorce of revenue from civil jurisdiction, the separation of judicial from executive functions, and the multiplication of judicial courts. As for the first, the Collector had hitherto tried cases relating to the rights of the landlord and tenant. These judicial functions were taken away from him and transferred to the Judges of the Zilla or district courts. The latter was also invested with the power to try criminal cases, the Darogas, who had exercised the powers of Magistrates, being reduced to the position of police officers. As regards the second reform, Cornwallis found that the administration of justice was regarded as a subordinate duty attached to the office of the Collector of revenue, to which all salaries and emoluments were annexed. The Collector received no salary either as Judge or District Magistrate. These two offices, he said, were considered appendages to those of the Collector. Considered

By Regulation 11 of 1793, the Collector was deprived of his judicial duties, and his function was henceforth confined to the work of revenue administration. His Revenue court was abolished. He ceased to be a Magistrate. The judicial and revenue departments of the government were

separated.<sup>63</sup> Cornwallis vested the collection of revenue and the administration of justice in separate officers. There were now of revenue two chief officers in each district, the Collector with executive duties concerning the collection of revenues and the purchase of merchandise for the Company, and the Judge-Magistrate with the civil and criminal jurisdiction. Provincial Courts of Appeal were established at Calcutta, Dacca, Murshidabad, and Patna. Cornwallis also established the important principle that the Collectors and other officers of the government were amenable to the civil courts for acts done in their official capacity.<sup>64</sup>

One noticeable feature of these reforms was the exclusion of Indians from responsible offices. Cornwallis had no faith in Indian agency and narrowed the field of their employment, relegating them to subordinate positions, such as those of the police Daroga or the Qazi and the Pandit, who advised the judges on Muhammadan and Hindu law, respectively. Cornwallis declared that he could no longer leave the criminal courts in Indian hands.<sup>65</sup> This policy was confirmed by the Charter Act of 1793, which reserved the principal offices for civil servants recruited in England, who were known as "Covenanted" from the covenants into which they entered engaging not to trade, receive presents, etc. This has rightly been described by Marshman as the impolite system which closed against Indians the prospects of legitimate and honorable ambition.<sup>66</sup>

The change in the system of criminal justice, involved a constitutional innovation. Criminal supervision was exercised through the Naib-Nazim. This office was abolished, and Cornwallis announced that he had "resolved to accept the administration of criminal justice throughout the province". This change was overdue. There had been a scandalous delay in the trial of offenders sent before the Daroga by the Magistrates. Since 1786 the Daroga had the power to try petty

cases of pilfering, assault, and abuse, and to impose a sentence of four days' imprisonment, but were otherwise simply police officers. The Darogas were corrupt. Wealthy offenders could purchase immunity for atrocious crimes. Murderers could escape prosecution by compounding with the heirs of their victims. Moreover, the Muhammadan Law was left intact. A Regulation, issued in 1790, opposed the western ideas of justice, order, and progress. The penal code contained extraordinary disparities of punishment and approved the most terrible mutilations.<sup>67</sup> Such penalties were abolished in 1791 when seven years' imprisonment was substituted for the loss of one limb and fourteen years for the loss of two. Otherwise, the Muhammadan Law was left intact. A Regulation issued in 1790 lay down that the decisions of the courts should, in all cases, be regulated by the Muhammadan Law.<sup>68</sup>

A Code of regulations for the guidance of the different courts was compiled by Sir George Barlow, who succeeded Cornwallis as the Governor-General. This was practically an enlarged edition of Impey's Code.<sup>69</sup>

Cornwallis system was thus based on the Permanent Settlement of revenue, the separation of revenue administration from the judicature and the employment of Europeans in higher offices. But the weakness of the plan lay in the fact that recourse to the courts was wholly ineffective as a means of protecting the rayats against the zamindars, while their existence encouraged among the richer Indian's love for litigation.<sup>70</sup>

The Permanent Settlement did not work well. At first, litigations choked the courts, and the sale of estates became frequent. To cure this congestion in the court's various strategies were tried,

mostly in the direction of swelling the number and influences of subordinate Indian judges, in limiting appeals and expediting proceedings. In 1801 the Sadar Diwani Adalat was handed over to three judges, ending thus the judicial activity of the Governor-General-in-Council. In 1807 provision was made to augment the number of puisne judges in accordance with the need. In 1814 and between 1821 and 1823 Munsiffs and Sadar Amins were given wider powers in civil cases. A fifth judge was added to the Sadar Diwani Adalat, and work was appropriated among the judges.<sup>71</sup> The number of Zila judges was increased, and slowly some revenue matters were referred to the Collectors. In criminal justice, the government was specially permitted to authorize Collectors to act as Magistrates.<sup>72</sup>

The measures of reform affected in criminal justice, between 1793 and 1813, were designed to remove the defects arising from want of co-operation on the part of zamindars, to solve the inadequacy of the stipendiary police, to impart efficiency and speed to criminal law.

Provision for the appointment of police Amins was made by Regulation XII of 1807, which authorized the Magistrate to recommend respectable Hindus and Muhammadans for appointment as Amin's or Commissioners of Police to assist the Daroga in the maintenance of law and order. The appointment of police Amins was intended to unite the influence of the zamindars with the power of Darogas. The appointment of a Superintendent of Police for the divisions of Calcutta, Dacca, and Murshidabad was made under Regulation X of 1808. The authority of the Superintendent of Police extended to the Patna Division under Regulation VII of 1810, which also provided for the appointment of a separate Superintendent of Police for the districts included in the Banaras and Bareilly Divisions. By regular communication with the local Magistrate and the Indian agencies operating under them, these Superintendents of Police were to keep

themselves constantly informed of the actual state of law and order and to submit the periodical report to the government with suggestions for improvement.<sup>73</sup>

To reduce the weight of criminal business, Regulation XVI of 1810 provided for the appointment of separate Magistrates, as well as for vesting certain Magistrates with a concurrent jurisdiction as Joint-Magistrates to assist in the suppression of crime. It also provided for the appointment of Assistant Magistrates in certain districts to discharge the general duties of the office of Magistrates. Its object was to increase the efficiency of administration and render justice in petty cases comparatively quickly and cheaply.<sup>74</sup>

The general policy underlying the modification of Muhammadan criminal law was to make examples by inflicting severe punishments. Consequently, exemplary and severe punishments were laid down even for crimes like perjury, the subordination of perjury or forgery. Another important feature of the legal reforms of this period was to increase the discretionary authority of the criminal courts in the passing of sentence independently of the fatwa of law officers<sup>75</sup>.

Under the Marquess of Hastings, considerable progress was made towards improving the judicial machinery by the introduction of native agency, but the foundation of the Bengal system still remained the same.<sup>76</sup> At his instance, the several rules-which had been from time to time enacted for the guidance of some of the judicial officers-were revised and consolidated into Regulation XXIII of 1814. Its object was to add to the efficiency and respectability of the Indian officers and to render justice locally available to the people through them. This measure was expected to diminish the pressure of civil business before the European Judges of Zilla and city courts.<sup>77</sup> The

enactment marked an important step towards the restoration of vigor and character in the Indian officers of justice, whose decay and disintegration had continued ever since the decline of the Mughal Empire. Warren Hastings had, in fact, tried to revitalize the Indian official organs of justice, but they were virtually eliminated under Cornwallis. The result was that although judicial officers continued in Parganas by heredity, "their duty was in several cases performed by proxy, and the person who did it was often ignorant and illiterate."<sup>78</sup>

Regulation XXIII of 1814, therefore, emphasized the judicial functions of the Munsif to the exclusion of two of his remaining duties as referee and arbitrator, which were discontinued.<sup>79</sup> On the recommendation of the Zilla and city judges, the Provincial Court of Appeal was authorized to sanction a new establishment of Munsifs, whose local jurisdiction was to correspond exactly with that of a thana or local police jurisdiction. Their nomination and selection were made by the Zilla and city judges, but their final appointment was vested in the Provincial Courts of Appeal. They could try cases of money and personal property to the extent of Rs. 64 instead of Rs. 50 as they previously did. The distinctive feature of advance, however, lay in the original jurisdiction which the new enactment vested in them for the cognizance and trial of local civil suits. To increase the efficiency of the Munsifs, the rules of their process and proceedings were carefully defined. Besides their normal judicial duties, the Munsiffs could also be entrusted with the work of investigating questions of local rights and usages and sale of personal property under orders of the judge. The Zilla and city judges could also direct them to make a report on the sufficiency and otherwise of securities and indigence of paupers. They could also be asked to hand over real property to the respective decree holders.<sup>80</sup>

Regulation XXIII of 1814 raised the powers and status of the Sadar Amins, whose office had been reconstituted in 1803. It authorized the Zilla and city judges to refer to the original suits for money and personal property to the amount of Rs. 150. They could also decide on reference appeals from the decision of the Munsifis, which the Zilla and city judges themselves were unable to settle quickly. Their decision is referred to appeals was to be final, except when the judges found reasons to admit special appeals. But no Sadar Amin or Munsiff could take cognizance of cases in which any British European subjects or European foreigners or Americans constituted a party.<sup>81</sup>

To expedite the general administration and relieve the pressure of business in the Zilla and city courts, provisions were likewise made by Regulation II of 1821 to increase the numerical strength and powers of the Munsiffs.<sup>82</sup>

These extensions to the powers of Indian judicial officers not only contributed to speed in the adjudication of suits but also reduced the pressure of business in the courts of European judges. The policy of progressive Indianization of judicial service received a temporary setback on the departure of the Marquess of Hastings, who had encouraged the employment of Munsiffs and Sadar Amins from motives of policy and economy. During the short administration of John Adam in January 1823, greater emphasis was once again laid on Europeanization with a view to increasing the efficiency of judicial service.<sup>83</sup>

In the field of criminal justice, the duties and powers of police Darogas were defined and specified by Regulation XX of 1817, which is regarded as the first police manual drawn up by

the British Government in India. The several rules, enacted from time to time for the guidance of police officers, were revised and framed into one regulation.

The main feature of reform in the office of Magistrate was the increase of his authority over police Darogas and Kotwals, whose appointment and the transfer was now to proceed from him under Regulation XVII of 1816. In the exercise of his powers, the Magistrate could also suspend or dismiss them without making any report to the Court of Circuit.<sup>84</sup> In the same way, the Superintendent of Police was given the power to appoint and dismiss the subordinate ministerial officers under him. He was also authorized to impose fines on police officers and even suspend them if they were found guilty of misconduct, negligence, or incompetence.<sup>85</sup>

Despite his preoccupation with political affairs, Hastings effected by 1823 considerable changes in the system of Cornwallis. The chief requirement, as Cornwallis assessed it, was far from being fulfilled. Though the Permanent Settlement had rendered the task of the Collector easier, the undefined character of rights and tenures had opened the flood-gates of litigation. So the problem still was how to separate Magistracy from the office of the judge, in order to enable the latter to devote his time and energy exclusively to the disposal of civil suits. In the districts of Hooghly, Jessore, Nadia, Purnea and Tirhut, where the number of pending suits was exceedingly large, a provision had been made for such separation. But the state of the service stood in the way, and the operation of that provision could not extend to other districts.

Hence in a minute, dated 12 June 1823, Adam recommended that the number of Registrars and European assistants should be increased in every district so that the judges and Magistrates might get some relief. But shortly afterward, Lord Amherst joined in place of Adam. And on 22 July

1824, he promulgated a Regulation by which the Sadar Amins were given the authority to execute their own decrees and also those passed by the Munsiffs. There was no further increase in the number of powers of the Munsiffs.<sup>86</sup>

Whatever were the other results of Adam's policy, it definitely raised a controversy delaying the progress of further Indianization in the Company's judicial service. The Anglo-Burmese War, which came in the midst of this controversy, also slowed the progress of reforms until the Zilla and city judges were directed on 12 September, 1827 to report on the state of administration under the Munsiffs. By a Regulation of 27 December 1807, however, the Governor-General-in-Council authorized the Sadar Diwani Adala to invest Sadar Amins with powers, when and where necessary, to try claims to the extent of Rs. 1000.<sup>87</sup>

Like the Court of Directors, the Zilla and city judges recommended that the number and powers of the Munsiffs should be generally increased, that the number of their emoluments should be considerably augmented and that they should be paid by salary, and not by a fee. The usefulness of the Munsiffs and Sadar Amins was likewise appreciated by W. B. Bayley, a member of the Council, who had distinguished himself in the judicial branch of the Company's service. He was chiefly instrumental in the enactment of regulations, designed to enlarge their powers, ever since he took over as Judicial Secretary to the Government in 1814. In a minute of 5 November 1829, Bayley pointed out that of every twenty original suits instituted in the civil courts of the Company, nineteen were determined by Indian officers themselves. He spoke highly of the services rendered by the Sadar Amins, who were appointed on the basis of their merit and competence for the post. Caste or religious considerations did not have any importance in their

appointment. In the case of the Munsifs also, it was found that those who got an appointment on merit turned out to be very useful officers.<sup>88</sup>

The existing state of the service and the growing accumulation of pending suits in the several courts thus dictated the expediency of extending the powers of the Mumsiffs and the Sadar Amins. The extensions of covenanted service involved financial considerations But the wars of the Marquess of Hastings had already produced a financial crisis. The Anglo-Burmese war under Amherst made the financial situation more serious.

Therefore, the first concern of Lord William Bentinck, who assumed control of the government in July 1828, was to reconstruct his administration to gain the maximum economy. He introduced "great and sweeping" changes in the judicial system of the country. In November of the same year, he established civil and military finance committees to suggest money-saving changes in the administration and constitution of government. He abolished the Provincial Courts of Appeal and Circuit. These courts had, in the course of time had become very different from what Cornwallis and Barlow originally contemplated in their creation. Both of them were eager to raise the dignity of the judicial character by appointing to these Provincial Courts the ablest men in the country. And yet Lord William Bentinck spoke of them "as the resting places for those members of the service who were considered unfit for higher responsibilities."<sup>89</sup>

The fact is that the revenue branch of the service, under successive administrators, had been gradually treading down the judicial. The very evil which Cornwallis and Barlow had sketched so forcibly in their minutes had been asserting itself, with progressive virulence, ever since their

removal from the scene of activities. And now Bentinck found the Provincial Courts of Appeals and Circuit, which were to have been objects of ambition to the ablest and the best men of the Company's civil service, little better than "refuges for the destitute and incapable."<sup>90</sup>

Moreover, as Courts of Circuit, the Provincial Courts were especially defective. They had a gaol-delivery twice in every year. The period between commitment and trial was infinitely too long. The prisoner was kept for months in confinement. Therefore, any measure, the effect of which was to increase the number of gaol-deliveries, could not fail to be a consecration to the people. But he did much more than this. He hit at the very root of the system which Cornwallis had initiated, not merely at the mode of procedure. It was a great thing to increase the number of gaol-deliveries, but it was not necessary to this end that the functions of the judge and the tax-collector should be combined in the same person Bentinck abolished the Provincial Courts and turned the Revenue Commissioners into Judges of Circuit. They were to superintend both the finances and the criminal justice of their different divisions. They were to look after the Company's coin, and they were to sit in judgment upon the gang-robberies-a blending of Somerset House and the Old Bailey.<sup>91</sup>

But this plan was not a successful one. Some of the ablest and most experienced members of the Court of Directors protested against it, and Lord William Bentinck himself soon found that it was a mistake. So he transferred the duties of the Sessions to the Civil Judges and decreed that they should hold a gaol-delivery every month. But the difficulty was that the Civil Judges were also the Magistrates. It was necessary, therefore, to divest them of their magisterial duties. So, another class of functionaries was to be found to take up these dropped responsibilities, and these

were flung on the Collectors. But this arrangement also failed, because the responsibilities of the criminal Judge and the police Magistrate were thrown about from one class of public functionaries to another as though it mattered not by whom they were assumed as an appendage to other graver duties.<sup>92</sup>

The plan of increased Indianization of judicial service also conforms to the object of economy, as much as it fulfilled the ends of justice. As early as 1824, the Court of Directors had observed: "We are satisfied that to secure a prompt administration of justice to the natives of India in civil cases, native functionaries must be multiplied..." The wishes thus clearly expressed were subsequently many times repeated. But it was not until the year 1831, that, under the administration of Lord William Bentinck, any steps were taken in India to give effect to the recommendations of the Court of Directors. Until Bentinck's time, Indians were not trusted with large powers. They were said to be of doubtful intellect and morals. The changeover was immediately preceded by a minute recorded by Holt- Mackenzie, who strongly favored an increasing use of the services of Indians, not only from motives of the economy but as a matter of sound principles of administration. He said: "Even indeed were I forced to admit that, in their present state of intellect and morals, the natives cannot be safely trusted with large powers, I should still be in favor of gradually enlarging the sphere of their authority at the risk of some temporary evil, and this apart from all the financial considerations that so imperiously call for their employment. Men are everywhere what their circumstances make them, and if we would raise the character of the people, we must begin with raising their condition."<sup>93</sup> Thus, for the first time, the claims of the people of the country to due participation in the duties and emoluments were publicly recognized. The plan of reform proposed by Bayley took concrete shape in

Regulation V of 1831, by which Bentinck placed into the hands of the Indian judicial officers a large share of the judicial duties of the country.<sup>94</sup> This greatly improved the effective working of the machinery of justice.

The disposal of original suits up to Rs. 5000 was transferred to the cognizance of Indian officers. The European Judges were, however, authorized to retain on their own files any suits for trial, and could recall suits referred to Indian officers, or transfer them from one Munsiff or Sadar Amin to another. They were, in fact, empowered to regulate their proceedings, as also to report on their conduct and ability to the Sadar Diwani Adalat. The Governor-General-in-Council also approved Bayley's proposed monthly scale of salary, which was fixed at Rs. 100 for the Munsiffs, 250 for the Sadar Amins, and Rs. 500 for the Principal Sadar Amins. The Court of Directors approved of this more extended use of the native agency". They also appreciated the propriety of declaring "all natives of India eligible to the judicial office."<sup>95</sup> This opening of the judicial service to all Indians, irrespective of their religious persuasion, signified in practice the end of the virtual monopoly, which the Muslims enjoyed in the legal profession of the country under the Mughals and the early administration of the East India Company".<sup>96</sup>

The judicial policy of the government also opened the avenues of employment to Indian Christians, who inspire their better opportunities for western education and fitness for judicial service had been virtually precluded before. The Charter Act of 1833 recognized and confirmed these developments, which had been noticeable in the field of Indian administration ever since 1813. Before the Charter Act of 1833, which for the first time, permitted Europeans to become

inhabitants of India, they had been subject to the jurisdiction of the Kings' Court only. Now they were made subject in criminal and civil matters to the ordinary tribunals of the country. By Act XI of 1836 of the Indian legislature, British-born subjects residing in the Company's territories in India, was actually made subject to the jurisdiction of the Company's civil courts.<sup>97</sup>

As far as the problem of separation of powers was concerned, Commissioners of Revenue and Circuit had been appointed in 1829, and they controlled the Collectors and Judge-Magistrates. They themselves held courts of sessions, the duties of Provincial Court being handed over to them. But the magisterial functions of the Judges were transferred to the Collectors in 1831, thus making the District Judge the chief justice and the Collector the chief executive officer in each district of the Regulation provinces. This arrangement was soon given up in Bengal.<sup>98</sup>

Bentinck was succeeded by Lord Auckland, who was an able and enlightened administrator. His administration was a successful continuation of the policy of reform inaugurated by Bentinck. The sweeping reforms undertaken during the administration of Bentinck and Metcalfe had greatly annoyed and alarmed the Court of Directors. Usually conservative in outlook and apprehensive of radical reforms, the Directors strongly disapproved of the measures, and shortly after the arrival of Auckland in India, they peremptorily ordered the Supreme Government not to adopt "any new measures or pass any new laws affecting in any material degree the civil and military administration", which might be "inconsistent in principle" with their "instructions or recorded opinions".<sup>99</sup> In the administration of civil justice, however, Auckland's period of Governor-Generalship saw three important reforms, namely, the Act of 1836, the increase in the

status, jurisdiction, and salary of Indian Judges and the substitution of the vernaculars for Persian in judicial proceedings.

The Act XI of 1836, called "the Black Act" by its opponents, repealed the 107th clause of the Charter Act of the 1813 which gave to gave to British-born subjects the right of appeal to the Supreme Court in suits in which Indians had the right of appeal to the Sadar Diwani Adalat. It also declared that henceforth no one within the territories of the East India Company "shall by reason of the place of birth or by the reason of descent" be exempted from the jurisdiction of the Company's court of civil justice, only the Munsiff's courts (in Bengal and Madras) being exempted.<sup>100</sup>

Macaulay, the author of Act XI of 1836, firmly believed that "the intention of the Parliament... was that the British-born settlers should be placed, with as little delay as possible, under the jurisdiction of the Company's courts". He even thought that Parliament intended to place British settlers not only under the civil but also under the criminal courts of the Company; otherwise, Indians wronged by Britishers, especially in the interior, could hardly expect to have justice done.<sup>101</sup>

Therefore, when Act IV of 1837 was passed, and the British-born settlers got the legal right to hold landed property for a few years or for good, they were brought under the jurisdiction of those courts, as well as of the revenue courts in cases of arrears and exactions of rent. In 1843, by Act VI of that year, they were generally placed under the jurisdiction of the Munsiff's courts in the Bengal Presidency also. For Madras, a separate provision was made on the same lines. In this

way, in civil matters, the distinction between the two judicial systems was made away with. But the anomaly continued to exist in criminal matters.<sup>102</sup>

Another important judicial reform carried out during the administration of Auckland was the augmentation of the power and salary of Indian Judges. Although Indians had been excluded from all important posts since the days of Cornwallis, yet by gradual stages, they were being given increasing power in the administration of civil justice. When Auckland arrived, the Indian judicial officers consisted of three grades, namely Munsiffs, Sadar Amins, and Principal Sadar Amins. These officers were classified according to the money value of suits, which they could decide.

With the abolition of the Provincial Courts of Appeals, the work of the District Judges became too heavy. They had not only to decide original cases involving more than Rs. 5,000, but also to hear appeals from the Indian judicial officers. To relieve them, additional District and City Judges were appointed, and they were empowered to refer certain appeal cases to the Principal Sadar Amins.<sup>103</sup>

During Metcalfe's administration, Macaulay tried to simplify this system and to relieve the pressure of the work on the District Judge, but his plan remained still-born.<sup>104</sup> The question of investing Indian Judges with great jurisdiction again cropped up in the middle of 1836. At this point, the Sadar Diwani Adalat proposed, with a view to relieving the District Judges, that summary appeals from the Sadar Amins and the Munsiffs should be made referable to the

Principal Sadar Amins, and special summary appeals from their decisions were to be allowed to the District Judges.<sup>105</sup>

After a great deal of controversy, the Act XXV of 1837 was passed empowering Principal Sadar Amins to try cases of any value referred to them by the District or City Judges, and also cases in which the government or its officers might be a party. Appeals from the Principal Sadar Amins in cases valued at more than rupees five thousand were to lie to the Sadar Diwani Adalat and in cases below that amount to the District Judge. It was also laid down that all ministerial officers of the courts of Indian Judges were to be under the control of the District and City Judges and the Sadar Diwani Adalat.<sup>106</sup>

The salary and establishment allowance of the Judges were also augmented. Auckland considered this step in the right direction. "As from year to year, we must give them power," he wrote to Hobhouse, it becomes absolutely necessary to raise them in dignity and character..."<sup>107</sup>

This policy of associating Indians with the administration of justice was further illustrated when Russomoy Dutt, a Bengali gentleman of Calcutta, was appointed a Commissioner of the Court of Request during the absence of one of the European judges. Auckland took this step, although he anticipated much clatter from it.<sup>108</sup> Another important reform carried out during Auckland's administration was the substitution of the vernaculars for Persian in the courts of law. The language of pleading was to be the vernacular of the country where the court was held, but in the Sadar Diwani Adalat, it was to be Hindustani. Although the idea of substituting the vernaculars for Persian originated in a desire for the economy and was put into effect through a desire to

make judicial proceeding intelligible to the mass of the people, yet it gave a great impetus to education, especially vernacular education. This measure destroyed what importance Persian still had, and enabled the students to turn their attention more effectively to English education. It also led to the rapid improvement of the vernaculars, which were now taught in all institutions of western learning.<sup>109</sup> This measure also improved the administration of civil justice, because the Indian Judges, on who fell the main burden of deciding original cases, were henceforth recruited more and more from persons having a wide liberal education-free from the narrowness and parochialism of purely classical education.<sup>110</sup>

## **CONCLUSION:**

The annexation of Bengal was primarily the result of the desire for economic gain on the part of the company's servants (sub-imperialism). This must be coupled with the fact that the servants and the court of Directors were aware that Bengal was crucial, in economic terms, to their trading network, and that their position in, and access to, the province would have to be strengthened and expanded against pressure from other European company's and hostile local rulers.

Thus in retrospect, after the granting of Diwani in 1765, the first twenty years of the East India Company's administration was marked by a continuous dilemma as to whether administrative power should be largely placed in the Company headquarters in Calcutta, or whether it should be dispersed more at the district level. As a result of the reforms of 1786, a number of districts were formally constituted out of the former Collectorships (i.e. the territorial revenue-units formed in

1772) and the post of the District Collector was revived with a substantial allocation of power to him. By 1793, through a fresh set of reforms, provincial governance was shaped into a more decentralised, yet oligarchic form of district administration, with two crucial centres of power – the District Collector (in charge of revenue matters) and the District Judge (in charge of civil justice) – in every District. Magisterial power for the administration of criminal justice was at different periods of time combined either with the Collector's or the Judge's duties. However, even after this degree of decentralisation, the very nature of colonial administration – arranged hierarchically from the headquarters at Calcutta to the district headquarter and sub-divisional towns, and then down to the tax collection estates in the countryside, entailed continuous movement of people between city, town and country. The apparatus of British colonial governance was actively harnessed in attempts to manage, reshape and indeed 'reform' Indian society. However, while the overall power equations may have been tilted in favour of the colonisers, the process was hardly just black-and-white – instead, it involved many negotiations and 'gives and takes'. Governmental and other related spaces in the domestic and public domain provided the physical ground in which these operations and power structures of governance and societal functioning were encoded and sometimes institutionalised.

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<sup>1</sup> This part of the chapter is adapted from a few pages of unpublished M.A. Thesis of Mark Theodore Berger entitled *From Commerce to Conquest: The Dynamics of Early British Imperial expansion Into Bengal*, The university of British Columbia, 1982.

<sup>2</sup> J.R. Seeley, *The expansion of England* (London: Macmillan and co., 1884), p. 179.

<sup>3</sup> *Ibid.*, p. 212

<sup>4</sup> *Ibid.*, p. 270. For Seeley's role in the development and British imperial History See Peter Burroughs, 'John Robert Seeley' *Commonwealth History* 1 no. 2. (Jan., 1973): 191-211. J.G. Greenlee, "A succession of Seeley's: The 'Old School' Re-examined." *Ibid.*, 4 no. 3 (may, 1976). Luke Trainor, *Historians as Imperialists: Some Roots of British Imperial History 1880-1900*, *New Zealand Journal of history* 15 no. 1 (April, 1981).

<sup>5</sup> See P. J. Marshal, *British Expansion in India in the Eighteenth Century: a Historical Revision*, *History* 60 (1975): 29, *Modern Asian Studies* 9 no. 4 (1975): 465. Holden Furber, "The Theme of Imperialism and Colonialism in Modern Historical writing on India," in *Ibid.*, pp. 183-208. Dodwell, Roberts and Hill all wrote chapter in the Cambridge History of The British Empire vol. v *British India 1497-1858*. (Cambridge: Cambridge University Press, 1929). See also Henry Dodwell, *Dupleix and Clive: The Beginning of Empire* (Gorakhpur: Vishwavlaya prakashan, 1962) first pub. 1920. And S.C. Hill ed. *Bengal in 1756-1757: A Selection of the public and private papers dealing with the reign of Siraj-ud-daula* (London: John Murray, 1905) In J. Holzman, *The Nabobs in England: A study of the Returned Anglo-Indian 1760-1785* (New York, 1926) P. 7. The author asserts that the English founded their empire in India "unintentionally and almost unwillingly."

<sup>6</sup> Philip Mason (pseudonym Woodruff), *The Men Who Ruled India: Vol. I The founders* (London: Jonathan Cape Ltd., 1971), First Pub. 1953, P. 103

<sup>7</sup> John S. Galbraith, "The 'Turbulent Frontier' as a Factor in British Expansion," *Comparative Studies in Society and History* 2 (1953-1960): 152.

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- <sup>8</sup> Percival Spear, *India: A Modern History* (Ann Arbor Michigan: University of Michigan press, 1961), p. 197.
- <sup>9</sup> Percival Spear, *Master of Bengal: Clive and His India* (London: Themes and Hudson Ltd., 1975) p. 199
- <sup>10</sup> P.J. Marshal, *Problems of Empire: British and India 1757-1813* (London: George Allen and Unwin Ltd., 1968), p. 167.
- <sup>11</sup> Pamela Nightingale, *Trade and Empire in Western India 1784-1806* (Cambridge: Cambridge University Press, 1970), p. 5.
- <sup>12</sup> *Ibid.*, p. ix.
- <sup>13</sup> This kind of expansion took place in India well into the nineteenth century. See, for example, Robert A. Huttenback, *British Relations with Sind 1799-1843: An Anatomy of Imperialism* (Berkeley: University of California Press, 1962)
- <sup>14</sup> Eric Stokes, "The First Century of British Colonial Rule in India: Social Revolution or Social Stagnation?" *Past and Present* 58 (1973): 142. Reprinted in Eric Stokes, *The Peasants and the Raj: studies in Agrarian Society and Peasant Rebellion in Colonial India* (Cambridge: Cambridge University Press, 1978), pp. 19-45.
- <sup>15</sup> Holden Furber, *John Company at work: A Study of European Expansion in India in the Late Eighteenth Century* (London: Oxford University Press, 1948), pp. 322-324.
- <sup>16</sup> Holden Furber, *Rival Empires of Trade in the Orient 1600-1800* (Minneapolis Minn: University of Minnesota Press, 1976), p. 182.
- <sup>17</sup> P.J. Marshal, "British Expansion in India in the Eighteenth Century: A Historical Revision," *History* 60 (1975): 29.
- <sup>18</sup> *Ibid.*, p. 31.
- <sup>19</sup> *Ibid.*, pp. 42-43.
- <sup>20</sup> P.J. Marshal, *East Indian Fortunes: The British in Bengal in the Eighteenth Century* (London: Oxford University Press 1976), p. 3.

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<sup>21</sup> Ibid., pp. 258-259.

<sup>22</sup> Ibid., p. 260.

<sup>23</sup> Jonathan Daniel Nichol, *The British in India 1740-1763: A Study in Imperial Expansion* Ph.D. dissertation, University of Edinburgh, 1976. Microfilm copy on interlibrary loan from the center for research Libraries. P. 304.

<sup>24</sup> Ibid., p. 304.

<sup>25</sup> Nirad C. Chaudhuri, *Clive of India: A Political and Psychological Essay* (London: Barrie and Jenkins Ltd., 1975) pp. 14-15.

<sup>26</sup> Ibid., p. 16.

<sup>27</sup> Ibid., p. 151.

<sup>28</sup> John Strachey, *The End of Empire* (London: Victor Gollancz Ltd., 1959), p. 23. Strachey, who was descended from a family that served the Raj for generations, was stimulated to write this book by a visit to Calcutta after Independence. "The book begins at Calcutta; on the verge of William...from the river Hoogly...It is a place in which a mid-twentieth century Englishman can hardly refrain from reflecting on the rise and fall of empires. The Hoogly rolls before him; contemporary Calcutta seethes behind his back upon either hand." p.13. Seated on the river bank Strachey may have allowed his judgement to be clouded by certain romanticism.

<sup>29</sup> Ibid., p. 24.

<sup>30</sup> Marshall, "*Economic and Political*," pp. 465-466.

<sup>31</sup> Ibid., pp. 481-482.

<sup>32</sup> Rudrangshu Mukherjee, "Trade and Empire in Awadh 1765-1804," *Past and Present*, 94, (Feb. 1982): 89-90.

<sup>33</sup> Ibid., pp. 101-102. For studies that analyse the takeover of Oudh more in terms of structure than motive see Richard B. Barnett, *North India Between Empires*, (University of California Press, 1980), and

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Michael H. Fisher, "British Expansion in North India: The Role of the Resident in Awadh", *The Indian Economic and Social History Review*, 18, (No. 1 Jan-Mar 1981)

<sup>34</sup> Mukherjee, "Trade and Empire" p. 90.

<sup>35</sup> Ramakrishna Mukherjee, *The Rise and Fall of the East India Company* (New York: Monthly Review Press, 1974), p. 110.

<sup>36</sup> *Ibid.*, p. 252.

<sup>37</sup> *Ibid.*, p. 252.

<sup>38</sup> *Ibid.*, p. 257.

<sup>39</sup> Immanuel Wallerstein, *The Modern World-System II: Mercantilism and the consolidation of the European World Economy 1600-1750* (New York: Academic Press, 1980), pp. 97-98. For further elaboration of Wallerstein's world-system concept see his *The Modern world-System I: Capitalist Agriculture and the Origins of the European World-Economy in the sixteenth Century* (New York: Academic Press, 1947) and his "The Rise and Future Demise of the World Capitalist System: Concepts for comparative analysis" in *The Capitalist World Economy* (Cambridge: Cambridge University Press, 1979) For critiques of various aspects of Wallerstein's approach see Robert Brenner, "The origins of Capitalist Development: A critique of Neo-Smithian Marxist," *New Left Review* 104 (July-Aug 1977) Anthony Brewer, *Marxist Theories of Imperialism: A Critical Survey* (London: Routledge and Kegan Paul, 1980) P.J. Cain and A. G. Hopkins "The Political Economy of British Expansion Overseas, 1750-1914," *Economic History Review* 33 (No. 4 Nov. 1980) Patrick O'Brien "European Economic Development: The contribution of the periphery," *Economic History Review* 35 (no.1 Feb. 1982) Theda Skocpol, "Wallerstein's World capitalist System: A Theoretical and Historical Critique," *American Journal of Sociology* 82 (no. 5 1977) Tony Smith, *The pattern of Imperialism: The United States, Great Britain, and the Late-Industrializing World Since 1815* (Cambridge: Cambridge University Press, 1981) Irving Louis Horowitz, *Beyond Empire and Revolution: Militarization and consolidation in the Third World* (New York: Oxford University Press, 1982)

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<sup>40</sup> Ibid., pp. 273-274.

<sup>41</sup> Ibid., p. 288. See N.F.R. Crafts “Industrial Revolution in England and France: Some Thoughts on the Question, Why Was England First?”, *Economic History Review* 30 no. 3 (August, 1977): 429-441. W.W. Rostow, “No Random Walk: A comment on ‘Why Was England First?’” *Economic History Review* 31 no. 4 (Nov. 1978): 610-612. N.F.R. Crafts, “Entrepreneurship and a Probabilistic View of the British Industrial Revolution”, Ibid., pp. 613-614.

<sup>42</sup> Marshal, “*British Expansion in India*,” p. 29.

<sup>43</sup> K.N. Choudhuri, *The Trading World of Asia and the English East India company 1660-1760* (Cambridge: Cambridge University Press, 1978), p. 55.

<sup>44</sup> Ibid., p. 56. See James Gordon Parker, *The Directors of the East India 1754-1790* Ph.d. dissertation, University of Edinburgh, 1977, pp. 250-251.

<sup>45</sup> Cain and Hopkins “*The Political Economy of British Expansion*,” p. 463.

<sup>46</sup> Ibid., p. 465.

<sup>47</sup> Ibid., p. 489.

<sup>48</sup> In 1824 the Dutch settlements and factories at Fulta, Chinsura, Kalkapur Dacca, Balasore, Patna and other places in Bengal were, as the result of a treaty transferred to the English Company. (See in this connection, Datta, K. K.. *The Dutch in Bengal and Bihar*, pp 153-62). In 1845 the Danish settlement of Seram pure was sold to the Company.

<sup>49</sup> A portion of the Punjab, including the Jalandhar Doab, was conquered and annexed in 1846; the rest was annexed in 1849.

<sup>50</sup> Bellary and Cuddapa were called ceded districts because they had been ceded to the Company by the Nizam.

<sup>51</sup> These included the estate of Mandvi in Surat and the Panch Mahals (obtained by lease from the Sindhia in 1853).

<sup>52</sup> Quoted in *Modern India and the West* (edited by L.S.S.O.' Malley).

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- <sup>53</sup> See Malcolm's observations on this point in *Political History of India*, Vol. II, pp. 180-81.
- <sup>54</sup> Holt Mackenzie's *minute* of 1 October, 1830, Appendix to Select Committee's Report (1833).
- <sup>55</sup> Wellesley's letter to Court, 9 July, 1800 (A. B. Keith, *Speeches and Documents on Indian Policy*, 1750-1921, p. 190.)
- <sup>56</sup> Clarke, *Bengal Regulations* (1854), Vol. I, pp 619-21.
- <sup>57</sup> Bengal Regulations, Vol. II, pp 904-07.
- <sup>58</sup> *Annals of Indian Administration*, Vol. IV, part II (1860), p 157.
- <sup>59</sup> *Ibid*, pp. 157-61.
- <sup>60</sup> *Report from Select Committee on Affairs of E.I.C.* (1833), p 18.
- <sup>61</sup> Reg. 1, 1829, (Bengal Regulations, Vol. II, pp 835-41
- <sup>62</sup> *Annals of Indian Administration*, Vol. IV, part I (1860), pp 153-54.
- <sup>63</sup> Aspinal, A., *Cornwallis in Bengal*, p 187.
- <sup>64</sup> O'Malley, L. S. S., *History of Bengal, Bihar and Orissa Under British Rule*, pp. 280-82.
- <sup>65</sup> Aspinal, *op cit*, p 70.
- <sup>66</sup> O'Malley, *op cit*, pp 282-83.
- <sup>67</sup> Aspinall, *op cit*, PP 53-69.
- <sup>68</sup> O'Malley, *op cit*, pp 283-84.
- <sup>69</sup> *Ibid*, p 285.
- <sup>70</sup> Keith, A., *Constitutional History of India*, p 143.
- <sup>71</sup> *Regulation XXIII* of 1814 and *V* of 1831.
- <sup>72</sup> *Regulation IV* of 1821.
- <sup>73</sup> Mishra, B. B., *The Central Administration of the East India Company*, 1773-1854, pp 341-56.
- <sup>74</sup> *Ibid*, p 356.
- <sup>75</sup> *Ibid*, pp 357-58.
- <sup>76</sup> Campbell, G., *Modern India*, p 181.

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- <sup>77</sup> *The Cambridge History of India*, Vol. V, p 458.
- <sup>78</sup> Mishra, B. B., *The Central Administration, etc.*, p 274.
- <sup>79</sup> Regulation XXIII of 1814, Secs. 3-4.
- <sup>80</sup> Mishra, B. B., *The Central Administration, etc.*, pp 274-75.
- <sup>81</sup> Regulation XXIII of 1814, Secs. 68-75.
- <sup>82</sup> Regulation II of 1821, Sec. 4.
- <sup>83</sup> Mishra, B. B., *Central Administration, etc.*, pp. 276-77.
- <sup>84</sup> Regulation XVII of 1816, Sec. 7.
- <sup>85</sup> Mishra, B. B., *Central Administration, etc.*, p. 367.
- <sup>86</sup> *Ibid.*, pp 277-78.
- <sup>87</sup> Regulation IV of 1827, Sec. 2.
- <sup>88</sup> Mishra, B. B., *Central Administration, etc.*, pp. 280-81.
- <sup>89</sup> O'Malley, *op cit*, p 351.
- <sup>90</sup> Kaye, J. N., *The Administration of the East India Company*, p. 346.
- <sup>91</sup> *Ibid.*, pp. 346-47.
- <sup>92</sup> *Ibid.*, pp. 347-48.
- <sup>93</sup> Cited in Mishra, B. B., *Administrative History of India*, p 509.
- <sup>94</sup> Regulation V of 1831.
- <sup>95</sup> *Judicial Despatches to Bengal*, 11 September, 1933.
- <sup>96</sup> Mishra, B. B., *The Central Administration, etc.*, pp. 283-84
- <sup>97</sup> Strachey, J., *India: Its Administration and Progress*, p. 109.
- <sup>98</sup> O'Malley, *op cit*, p 67.
- <sup>99</sup> Sinha, D. P., *Some Aspects of British Social and Administrative Policy in India during the Administration of Lord Auckland*, pp. 4-5.
- <sup>100</sup> *Ibid.*, p 269.

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<sup>101</sup> Ibid.

<sup>102</sup> Mishra, B. B., *The Administrative History of India*, p 513.

<sup>103</sup> Sinha, D. P., op cit, pp 280-81.

<sup>104</sup> Dharkar, C. D., *Lord Macaulay's Legislative Minutes*, p 105.

<sup>105</sup> Sinha, D. P., op cit, p 281.

<sup>106</sup> Act XXV of 1837.

<sup>107</sup> Sinha, D. P., op cit, pp 291-92. Ibid., p 293.

<sup>108</sup> Ibid., p. 293.

<sup>109</sup> Ibid., p. 304.

<sup>110</sup> Ibid.