

JUDICIAL ADMINISTRATION IN MADRAS PRESIDENCY FROM 1858 TO 1862

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Abstract

In spite of an in depth research by the scholars on the history of Madras presidency, very little is known about the judicial administration of Madras under the British, which was one the three British presidencies. The overall image that emerges from the literature is negative with regard to the administration of the British India particularly by the implementation of judicial laws. The study aims to highlight some unearthed facts with regard to the judicial administration and the implementation of judicial laws. An analysis of some of the contemporary literature brings to light some interesting results which sometimes go contrary to some established facts.

Keywords: Criminal Justice, Civil Justice, Law & Order, Administration, British, Sadar Court

INTRODUCTION

The Supreme Courts of the three presidencies each administered the 'English' system of law exclusively and they had not at all any connection to the Company's courts. English, Muslim, and Hindu law was mixed together in the courts run by the East India Company. The rules and acts of the company's government made it easier or changed it from time to time. Despite the fact that the reforms were intended in 1833, they were not implemented until 1858. Because of the Crown's takeover of Company management, the court system underwent major restructuring. As a first step, the supreme courts and Sadr Adalats in each Presidency Town were merged into a single court. It took a long time and a lot of planning, but these two sets of courts were finally merged in 1861.¹ The Sadr Adalats, or Courts of Appeal, in each Presidency Town were merged with the Supreme Courts, and new High Courts were founded. As many as one-third of each High Court Bench were members of the English, Irish, and Scottish bars. Another one-third were covenanted employees, and the final third were people who held judicial office or practised in the High Courts themselves. When the Supreme Courts were in operation, the new High Courts' authority was limited to the former Presidencies. The two most important reorganisation steps were to simplify the law and to establish a mechanism. In 1859, the Code of Civil Procedure and the Code of Criminal Procedure were codified and passed. As a result of enacting consistent legislation across British India, a foundation for judicial reform was laid.

To create a single court, the Supreme and Sadr Courts of Justice were merged into the High Courts of Justice. While the policy of combining two competing systems for managing courts did not change, there were no major changes in the way that this was done. There was a new Supreme Court that followed the old Sadr Court, and it used the same law that the old Supreme Court would have used. It was in stark contrast to the rule of law, equity, and good conscience that the appellate side had relied on following the demise of the Sadr Court. The High Court originally had the same criminal, admiralty, testamentary, and matrimonial jurisdictions as the tribunal it superseded. Criminal procedure remained distinct from the appellate side throughout this time period as well. Changes to the Supreme Court's civil procedure were remarkable and special, as the old code was replaced by a new legislation that applied uniformly throughout India.

Members of the uncovenanted Judicial Service and Vakils were proposed to be excluded from the selection process for the members of the High Court in the 34th section of their report. According to section 161, a European should hold the top position in the zillah courts.² With the Commissioners, he agreed that the effectiveness and character of the court should be the only considerations in any arrangement, and that the elevation of a person simply because of his or her class or belief would be exceedingly offensive to their feelings. Exclusion was a beneficial evil in this case. By depriving the public of the services of the most capable

man, prohibiting healthy competition, and elevating some people over others without regard to their particular talents, it fed class animosities and depressed both the state and individuals.

It's imperative that the judges of the High Court, both from Europe and India, be given specialised training. With the need that selected applicants take and pass a particular examination in legal theory and practise, as well as see court proceedings, an English precedent had been created for something similar.³ To put it another way, he agreed with all of the Commissioners' proposals for improving the bench. Reviving Zillah's Courts Registry would offer judicial bench members with the training they couldn't get through practising law, as well as freeing courts from ministerial job that Judges were compelled to conduct, according to their suggestion. Young civilians interested in pursuing a career in law should be required to complete their undergraduate studies at Madras University, as well as their law clerkships and three years of service in the Revenue Department, where they can learn about the country's land tenure systems and the people's customs, attitudes, and feelings.⁴

It appears that Trevelyan exerted considerable influence over the establishment of the High Court in 1862, according to the instructions of the Secretary of State, who sent the minutes of Trevelyan and the report of the Commissioners to the Indian government. When it finally came time for Indian judges to be appointed to high court and district court positions, it took a long time.

METHODOLOGY

The methodology of this study is purely historical and descriptive. The required information is collected from different sources like Judicial consultations, judicial reports, administrative reports and other publications relating to administration of the British India.

Civil Justice

The branch of the judiciary that had been ignored since British occupation in 1803, has now been restored. It was discovered that the civil courts set up throughout the Presidency lacked sufficient resources and were rife with flaws. Judges from Europe had no knowledge of the local languages, customs, or habits. A questionnaire was sent out by the Court of Directors regarding the workings of the Indian judiciary. It was urgently needed, according to Bengali Law Council Member Henry Strachay, to establish more courts made up of native Bengalis, Hindus and Muslims alike, who would follow British Regulations. The Supreme Civil Court, or Sadr Diwani Adalat, was present in every district. The court of Principal Sadr Admin. was subordinate to the Civil Judge Courts.⁵ The new civil code was applied to all lawsuits of any kind. In addition, a High Court was formed under the Act of 1861. Courts of Appeal for both civil and criminal courts, Sadr Diwani Adalat and Sadr Nizam Adalat, have been eliminated. The Supreme Court was elevated to the status of the Presidency's top appeals court. The Presidency has 101 civil courts set up among the various regions. One Chief Justice and four Puisne Judges were in charge of running the civil side of the High Court, which was overseen by the High Court.⁶ The Queen appointed one of the Chief Justices and one of the Presiding Justices from the United Kingdom's Bar. Her Majesty nominated others, either covenanted or uncovenanted, on the recommendation of the local government.

Criminal Justice

On the criminal side, the High Court was able to hear cases from both the prosecution and the defence. Four Puisne Judges, one of whom was a Barrister, presided over the court, all of whom had been nominated by the Queen directly at the time. Within the city limits of Madras, it carried out its original criminal jurisdiction and also heard matters referred to it by the Presidency Magistrates.⁷ The exact dates and times of meetings changed on a regular basis. A single judge presided over these sessions, which took place around once every three months. As early as 1805, the British Government imposed a set of rules and restrictions on the administration of criminal law. However, the administration of criminal justice was fraught with difficulties for both the prosecution and the witnesses during the early years of British rule.⁸ The Sadr Nizam Adalat was the Supreme Court of Appeal for all criminal proceedings in the year 1858.

The district only had one criminal court of sessions judge to choose from. The Assistant Magistrates and Deputy Magistrates were there to assist him. It was also that year that the posts of Honorary Magistrates, who had judicial authority, were established.

Extending jury trials was the most significant innovation in this code. At these sessions, all of the inmates who had agreed to stand trial before the high courts were present, and the trial was conducted in front of a jury of nine people. There were two types of juries: general and specialised. Ordinary trials were heard by a common jury, whilst capital cases and other unusual cases were heard by a specialised panel of judges. To sit outside Presidency Town, the High Court was granted permission by the Local Government. Every person in the jurisdiction of any court under the High Court's control was subject to the court's original criminal jurisdiction.⁹ A trial in the High Court was ordered for European British nationals accused of serious crimes committed outside of Madras.¹⁰ To appeal an acquittal by a lower court, one must go through the Local Government.¹¹ Recommendations from such instances have been received and dealt with by the High Court, which has acted on them.

Each district had its own Sessions Court. By virtue of the Governor-in-appointment Council's of the District Judges as Sessions Judges, they presided over the proceedings. As a court of original jurisdiction, the Sessions Court could not hear any case unless a Magistrate had committed the accused person to it. A jury of five or two or three assessors presided over proceedings before a Court of Session.¹² As a result of this, jury trials were only allowed for specific property offences such as robbery, housebreaking, and receiving or concealing stolen items. The maximum punishments authorised by the Penal Code might be passed by the Sessions Courts, save for the death penalty, which could only be appealed in accordance with the law. The District Magistrate or other Magistrates of the first class could be appealed to an Appellate Court.

The magistrate court was not as high-ranking as the court of session. The Magistrate of the first, second, and third grades presided over them.¹³ It was the first class Magistrates' responsibility to oversee all other Magistrates in the district and to delegate the district's criminal activity among the several Magistrate subordinates, as well as to define their own authority. Government-appointed magistrates of the second and third classes were given the authority to hear appeals from their rulings. Every first-class European magistrate was granted Justices of the Peace's powers so that they could handle European British citizens.

There were Presidency Magistrate Courts in Madras, India. Within the Presidency Town, there were four such courts, each of which had first-class magistrate powers and served as "ex-officio" Justices of Peace.¹⁴ Nevertheless, they were entrusted to the High Court. The Chief Magistrate has the authority to set the agenda for court sessions, appoint the members of the bench, and oversee all other aspects of the court's activity. A Magistrate and Justice of Peace, the Inspector General of the Police had the authority to use Magisterial powers, but could only do so in the event of an emergency. When it came to preventing crimes and apprehending and detaining criminal suspects, he had limited authority.

St.Thomas Mount and Cannanore were the two cantonment Magistrates' Courts. As a first-class magistrate of a district's division, these officers presided over these courts. The magistrates' courts in the villages were the lowest tier of courts. They were also given authority to decide criminal cases.¹⁵ There was a headman of the village, the Munsiff, who had the authority to punish petty crimes like assault and abusive language by imprisoning the offenders in the village court for 12 hours or in the stocks for no more than six hours depending on their caste. 1,37,834 lawsuits were filed in the various courts of original jurisdiction in 1860. Civil Judges presided over 310, 680 subordinate judges presided over 680, Principal Sudder Amins presided over 230, and Sudder Amins presided over 2015, 88,793 of them. Suits were down by 25,435 from last year, when compared to the prior year.

According to the activities of the Courts, 7,808 more cases were determined on the merits in the prior year than the number of cases decided in the previous year. An additional Rs. 10,376/- has been allocated to the entire number of additional decisions, which includes those that were otherwise disposed of.¹⁶ With the help of the courts' efforts, together with the previously reported fall in litigation, the number of ongoing cases had decreased by 19,277 from the previous year. The Courts began the year 1861 with 68,855 cases on their dockets, rather than the 88,132 cases that had been on their dockets the previous year.

A comprehensive inquiry resulted in a resolution of 27%, 28%, and 28% of all cases outstanding at the end of 1850 and beginning in 1860, respectively; the remaining 11% were settled privately; and the remaining 30% were still in the process of being handled in court. Eighty-five percent of the lawsuits were decided in the plaintiffs' favour, while fifteen percent were determined in favour of the defendants, following an extensive investigation. A total of 2 percent of the total cases resolved were assigned to Civil and Subordinate Judges, while 67 percent were assigned to the Principal Sudder Amins, Moofy Sudder Amins, and District Munsiff levels of the judicial system, respectively.

At the end of the year 1860, 16,996 or 4% of the 68,855 Original cases still outstanding had been on the files for more than a year, and 16,075 or 4% had been on the files for more than six months.¹⁷

According to the data in the accompanying table, the average duration of litigation before each class of tribunals was roughly the same as it had been the year before:-

	1850				1860	
	Y	M	D	Y	M	D
Civil Judges	1	8	12	1	3	11
Subordinate Judges	1	1	2	1	3	16
Principal Sudder Amins	0	9	19	0	10	23
Sudder Amins	0	10	2	0	9	11
District Munsiffs	0	7	14	0	7	11

A breakdown of lawsuits filed in 1860, omitting those sent back to the district court or otherwise held, is as follows:-

2,882 of them were linked to a source of income derived from the rental of land.

7,774 people had ties to land in some other way.

Fixed-property purchases totaled 2,868.

There were 105,170 cases involving loans, salaries, and other financial obligations.

There were 178, including things like caste, religion, and so on.

There were 2,734 Indigo, silk, and other textiles.

Ninety-nine percent of the total number of actions filed were for the recovery of debts and wages, while just 478 were related to caste, religion and other social issues.

At the end of the year 1860, there were Rupees 118,15,664-5-5 in pending Original cases, which was 66,42,557-7-5 less than the previous year's end total. On the 31st of December, 1860, there were less lawsuits pending than in the previous year.

After 18 months, the Lower Appellate Courts had dealt with 11,603 appeals, including 2,198 for appellants and 3279 against respondents; 248 for one percent were remanded; 581 for three percent were dismissed for default; and 5352 or 29 per cent were otherwise dealt with, with an average appeals file time of 1 year 6 months and six weeks.

As of 1859, there were only 4,505 unexecuted decrees out of 58,967 total petitions for decree execution that had been received. This represents an execution rate of 92 percent at the time. In the year 1860, the Sudder Court handled civil appeals under the old legislation and those handled by Act VIII of 1850, as shown in the following table:

	under the old law		under the old law	
	Regular	Special	Regular	Special
Pending 1 st January, 1860	22	75	0	0
Admitted or received	13	127	25	728
Total	35	202	25	728

	Under the old		Under the old law	
	Regular	Special	Regular	Special
Dismissed in default	2	0	0	14
Adjusted for withdrawn	1	0	0	1
Confirmed	18	67	1	101
Amended	9	10	0	0
Revered	3	70	3	17
Remanded	0	51	0	2
Otherwise disposed of	9	9	0	2
Total	35	198	4	140

The appointment of citizens without proper legal expertise as District Judges constituted a systemic flaw in the administration of civil justice. It is the government's duty to ensure that this system with its well-documented flaws is not abolished.

Since the administration of Criminal Justice is concerned, there have been several instances of injustice in Indian-European cases. It became increasingly difficult for them to get back in touch as the government was slammed for its lack of discipline. However, when it came to instances of sedition and treason, the scales were stacked against nationalists more frequently than not. As magistrates in the mufusal were more concerned with maintaining order than enforcing justice, there was a high rate of miscarriage of justice.

The payment of court fees has become an unavoidable part of the legal system. As a means of cutting down on litigation, it has been brought up from time to time. The government was making a lot of money off of court fees. In every court, it was now standard practise for both sides to make false statements to one another.

As a result, the indigenous system was almost completely wiped out by the British system of administrative justice.¹⁸ Justice was delivered free of charge under the old system. There was no delay in resolving the lawsuits because the legal process was basic and understandable to the public. As a result, both sides were happy with the judgments of their courts. As a result, from 1858 to 1862, the administration of justice was solid and effective, with all of the necessary components in place.

CONCLUSION

According to judicial reforms, the Presidency administration was committed to judicial reforms, as evidenced by the Code of Civil Procedure (1859), Indian Penal Code (IPC) (181860), and Criminal Procedure Code (CrPC) (1861), as well as the establishment of India's first high court in 1862, which swept away India's indigenous legal system and satisfied litigants with its fairness and speed. A number of miscarriages of justice have occurred in situations between Indians and Europeans, but the authorities have taken action against those involved. It is undeniable that the Madras Presidency Police were confronted with numerous challenges. There was an increase in crime as a result of a rise in population, the expansion of trade and business, and faster means of communication and travel. However, the apathy and indifference of the peasants led to a drop in crime detection. The population, weary of foreign rule, took a phlegmatic stance toward the government and the acts of the government. For help fighting crime and disorder, the police had no one else to turn to. They had

to wait another century until the birth of freedom sparked a new period of civic consciousness before they could enlist the public's ready cooperation.

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