

FACULTY OF JURIDICAL SCIENCES

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Lecture-19



The Judicial Plans of Warren Hastings 1772

Till the middle of the 18th century, the Company held under it only three presidency towns of Calcutta, Madras and Bombay. As time passed, the company expanded its political activities and brought new territories surrounding the presidency towns under its control. This territory came to be known as the mofussil.

The first territorial acquisition of the company consisted of Bengal, Bihar and Orissa. Here the first adalat system was started in 1772.

Warren Hastings introduced the new judicial administration system as well as a revenue collection system in the year 1772.

It laid the Foundation of Adalat system.

Judicial Plan of Warren Hastings 1772

Warren Hastings Administrative plan divided territory of Bengal, Bihar and Orissa into number of Districts.

In each District an English servant of the company was appointed as a Collector who was to be responsible for the collection of land revenue.

Establishment of Mofussil Diwani Adalat

As per Warren Hastings' plan a Mofussil Diwani Adalat was established in every district with collector as the Judge. The court was authorized to decide all civil cases like disputes regarding properties, inheritance, marriage, caste, debts, disputed accounts, contracts, partnerships and demands of rent.

Wherever possible religious laws of Muslim as well as Hindus were followed and applied .E.g. Caste, marriage, inheritance etc.

As the English servant who was appointed as Collector did not understand the religious laws , Kazis and Pundits were appointed to help him.

The decisions of the Mofussil Diwani Adalat in cases up to Rs.500 were final.

Establishment of Small Cause Adalat –

This Adalat decided petty cases up to Rs. 10. The Head farmer of the Pergunnah became the judge. This system was designed to save the traveling expenses of poor farmers, as they did not need to travel to the district place for justice.

Establishment of Mofussil Fozdari Adalat –

In every district a mofussil nizamat or fozdari adalat was established to try all criminal cases.

The adalat consisted of the Muslim kazi, mufti and moulvies.

The moulvies interpreted the Muslim law of crimes.

The Kazi and Mufti gave fatwa and render judgment.

In this adalat collector exercise general supervision over the Adalat, and saw that no corruption was made in the case. The judgment was given impartially.

This Fozdari adalat was not allowed to handle cases where punishment was death sentence or forfeiture of property of the accused. Such cases went to Sadar Nizamat Adalat for final orders.

Establishment of Sadar Adalats

Firstly two courts were established namely Mofussil Diwani Adalat and Mofussil Fozdari Adalat over them 2 superior courts were established namely Sadar Diwani Adalat and Sadar Nizamat Adalat. The sadar diwani adalat consisted of Governor and members of the council and was to hear appeals from the mofussil diwani adalat in the cases over 500 Rs.

The first sitting of the Sadar Diwani adalat was held on the 17th March, 1773.

On each appeal fee of 5 percent was charged.

The appeals were to be filed in the Adalat within 2 months from the date of the judgment, decree given by the Mofussil Adalat.

Establishment of Sadar Nizamat Adalat

Sadar Nizamat Adalat consisted of an Indian judge known as Daroga-i-adalat who was to be assisted by the chief Kazi, chief mufti and 3 moulvies. Nawab appointed all these persons as per the advice of the Governor.

In case of death sentence punishment, the death warrant was made by the Adalat and signed by the Nawab as the Head of Nizamat.

The governor and council supervised this adalat to control and reduce the corruption.

All cases were heard in the open court.

All courts were ordered to maintain registers and records.

Any case older than 12 years was not accepted.

District courts forwarded their records to the Sadar adalat

In civil cases when Plaintiff filed a case, defendant accused person was given only limited time to give answer and then examine the witness and give the decree, pass the final orders.

The plan tried to reduce the expenses of people.

With this plan law officers like kazis, muftis were given salaries.

Before this plan Judge charged the commission but this new plan abolished this law and introduced the Court fee system where fees went to Government.

After this plan and establishment of Courts for common Indians it became easy to approach the Judiciary.

Warren Hastings purposely did not take the full charge of Criminal justice system and kept the puppet Nizam alive.

He did not change the forms and when possible tried to show that the company respected the Nizam. Thus Nizam got the power to sign the death sentence.

The other intelligent system that Warren Hastings kept alive was that following Hindu laws for Hindus and Muslim laws for the Muslims.

In this plan the collector got many powers, collector was the administrator, tax collector, civil judge and supervisor over the criminal courts.

Because of this the collectors got unlimited powers and Warren Hastings knew that the downside of this would be that the collectors would become corrupt .he already told the company directors about this defect of this plan. The directors of the company understood the fear and reality of this plan.

In the year 1773, Company directed the Calcutta council to withdraw the collectors as they had become very corrupt.

After this the Calcutta Government introduced a new plan for the collection of revenue and administration of Justice on November 23, 1773 and put it into force in the year 1774.