

“JUDICIAL TRANSITION IN COLONIAL INDIA: FROM REGULATING ACT (1773) TO THE INDIAN HIGH COURTS ACT (1861)”

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Article Info	ABSTRACT
Article History: Received: 24th January 2026 Accepted: 01st February 2026 Published: 05th February 2026	The history of the High Courts in India is closely connected with the wider story of British colonial rule. When British parliament passed the Regulating Act of 1773 to control and regulate East India Company's affairs, they set up Supreme Court at Calcutta. This was the first formal court in India based on English law, but it quickly ran into problem. These judges tried to apply English legal principles directly, without understanding and considering Indian customs and practices. This led to conflict between the Supreme Court of Calcutta, East India Company's administration and the local people. To reduce these tensions, the British parliament introduced new rules through the Act of Settlement/ Ammendment 1781, which limited the powers and the jurisdiction of the Supreme court of Calcutta.
Keywords: <i>JUDICIAL TRANSITION</i>	

Plagiarism Check Report:

Tool Used: Turnitin

Date of Report: February 02, 2026

Similarity Index: 7%

Remarks: No significant matching text. All citations and matches are properly referenced. The manuscript is considered original.

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How to Cite: Mete, V. B. (2026). Judicial Transition in Colonial India: From Regulating Act (1773) to the Indian High Courts Act (1861). *IIP: International Multidisciplinary Research Journal (IIPIMRJ)*, 3(1), 849–854.

INTRODUCTION

The history of the High Courts in India is closely connected with the wider story of British colonial rule. When British parliament passed the Regulating Act of 1773 to control and regulate East India Company's affairs, they set up Supreme Court at Calcutta. This was the first formal court in India based on English law, but it quickly ran into problem. These judges tried to apply English legal principles directly, without understanding and considering Indian customs and practices. This led to conflict between the Supreme Court of Calcutta, East India Company's administration and the local people. To reduce these tensions, the British parliament introduced new rules through the Act of Settlement/ Amendment 1781, which limited the powers and the jurisdiction of the Supreme court of Calcutta.

Meanwhile, in the provinces company created its own Sadr Adalats for both civil and criminal matters. For decades, India had these two parallel judicial systems – the King's Supreme courts in presidency towns and Company's Sadr Adalats in provinces. By mid1800's, this arrangement became confusing and insufficient. After the revolt of 1857, British Crown took over the direct control of India from East India Company and judicial reforms became necessary. The Indian High Courts Act of 1861 solved this problem by merging these two systems into new High Courts at Calcutta, Bombay and Madras, creating a more unified structure of Judiciary.

Importance of this Research Paper

Studying the importance of High Courts from the Regulating Act of 1773 to the Indian High Court Act of 1861 is important because it shows how India's modern judiciary took shape under colonial rule. These reforms pioneered the idea of a unified Judiciary system, replacing the dual structure of supreme courts and Sadr Adalats. This also laid the foundations of principles like Rule of Law, hierarchy of courts and judicial independence which remain central to India's judicial system today. The High Courts created in 1862, continue to function, making them one of the oldest institutions in Modern India. Understanding this history helps us to see how colonial judicial reforms eventually shaped the democratic judicial framework of independent India.

AIMS AND OBJECTIVES OF RESEARCH

- To examine the development of judicial institutions in colonial India from the Regulating Act of 1773 to the Indian High Courts Act of 1861.
- To analyse causes and challenges that led to these judicial reforms during the colonial period.
- To study functioning of Supreme Courts and Sadr Adalats and trace their significance in the evolution of the Indian Judiciary.
- To evaluate the impacts and provisions of the Indian High Courts Act of 1861, in creating a unified and organized judicial system.
- To establish the continuity between colonial judicial reforms and the foundations of modern Indian High Courts.

HYPOTHESES OF THE RESEARCH

- The establishment of the Supreme Court under the Regulating Act of 1773, marked the beginning of structural judicial system in India, but their conflicts with Indian society and East India Company revealed the need of reforms.
- The co-existence of Supreme Courts and Sadr Adalats created a dual judicial system that was confusing and insufficient, ultimately leading to the necessity of unification.
- The Indian High Courts Act of 1861 not only organized judicial administration but it also laid the foundation of today's High Courts in India.

RESEARCH METHODOLOGY

For the study of British Administrative Policies in India 1765-1892, I chose "Judicial Transitions in

Colonial India : From Regulating Act (1773) to Indian High Courts Act (1861)." For this research paper I will be using secondary sources, acts and some research articles. Explanation and interpretation are the fundamental features of my research. In order to cite the authority and provide additional information, as well as to facilitate cross – referencing, I also added list of references at the end of this paper, following methodology rules and research ethics.

HISTORICAL OVERVIEW

The British rule in India is responsible for the development of common law based legal system in India. Judicial functions of the East India Company expanded substantially after its victory in the battle of Plassey in 1757. After this battle, British rule was established in Bengal. East India Company captured all over the India in next hundred years. After the battle of Plassey, East India Company got the rights to appoint the Nawab of Bengal, who was basically their puppet. Though battle of Plassey provided a base to the establishment of British power in India, battle of Buxar strengthened and made this base strong. Battle of Buxar was fought in 1764. This was the battle where, East India Company defeated three major Indian rulers of the time, that was, Mir Qasim (Nawab of Bengal), Mughal Emperor Shah Aalam 2nd and Shuja – Ud – Daula (Nawab of Awadh). This battle was ended up with the treaty of Allahabad. According to the treaty, Dual system was introduced in Bengal.

This Dual system included two parts – one is Nizamat i.e. the military power and criminal justice and another is Diwani i.e. collection of revenue and civil justice. Through the treaty of Allahabad, company got the Diwani rights of Bengal, Bihar and Orissa from the Mughal emperor. However, the administration of criminal justice i.e. Nizamat work was left with the Nawab of Bengal, who was responsible for the maintaining law and order. The aim behind this system was to create a check and balance system. After the getting Diwani, the company did not run it directly at first. They gave this responsibility to two Indian officers. Mohammad Reza Khan and Raja Shitab Roy at Murshidabad and Patna respectively, to look after revenue collection and civil justice.

But this system soon became corrupt, as company servants used their power only for personal benefits and profits. This caused great suffering, famine and decline in Bengal, Bihar and Orissa. Finally in 1772, company decided to take full control of Diwani itself and manage it through its own officers to make more profits. In 1772, the Adalat system was established for the first time, by Warren Hastings, who was the Governor of Bengal that time. The Adalat system was established for the administration of justice for common people in the mofussil of Bengal, Bihar and Orissa.

The Judicial Plan of 1772:

The judicial plan of 1772 was introduced by Warren Hastings, which laid the foundation of systematic court system in Bengal, Bihar and Orissa. It followed the traditional division of authority assigning Criminal Justice to the Nawab and Civil Justice to the Company, following this distinction, separate courts were established for the administration of justice in civil and criminal cases.

According to this plan, the whole Diwani area of Bengal, Bihar and Orissa were divided into several districts, as units of administration. A Collector was appointed as a district officer in each administrative unit, responsible for the collection of revenue.

A Court for deciding civil case was established in each district called as Mofussil Diwani Adalat. The Collector of each district was to preside as a Judge in this Court. These Diwani Adalat were authorized to decide all civil affairs including real and personal property, inheritance, caste, marriage, debts, disputed accounts, contracts, partnerships and demands of rent.

A Court for trial of criminals was also established in each district known as Mofussil Nizamat or Fozdary Adalat. In these Courts, native law officers, Kazi or Mufti assisted by two moluvies used to sit as Judges to decide all sorts of criminal cases. A Collector of the district used to supervise the Mofussil Fozdary Adalat in his district.

Besides the lower courts established in every district, two superior courts of Justice were created at Calcutta. These Courts acted as a Courts of Appeal. These Courts were called as the Sadar Diwani Adalat and Sadar Nizamat Adalat for civil and criminal appeal respectively.

The Sadar Diwani Adalat consisted of the Governor and the members of his Council. The function of this Court was to hear the appeals from the decisions of the Mofussil Diwani Adalats. The Sadar Nizamat Adalat

consisted an Indian Judge known as Daroga, appointed by Nawab and assisted by the Chief Kazi, Chief Mufti and three Moulvies. This court used to hear appeals from lower criminal Courts and decide the dispute in accordance with this exposition of law.

The Regulating Act of 1773

After dual system of governance in Bengal, Company's servants became rich but the financial position of the Company became worse, after the wars East India Company fought. Company applied for a loan from British government to escape bankruptcy. British parliament then passed two acts, first act sanctioned a loan of 1,400,000 Pounds and the another act was the Regulating Act of 1773. This act was passed by British parliament to control and regulate the affairs of East India Company. This act is considered as the pioneer of the Central Administration in India.

The Regulating Act of 1773 made some important changes in the structure of the Company, and appointed a Governor General and four councillors at Fort William at Calcutta. Warren Hastings was appointed as first Governor General of Bengal. The Regulating Act of 1773 is widely considered as the first attempt by British parliament to construct a regular government for India and to intervene in the control of the company's administration. The presidencies of Bombay and Madras were placed under the control and superintendence of the Governor-General-in-Council while exercising their powers to make war and peace.

The Regulating Act of 1773 was the first attempt of creating a separate and somewhat independent Judicial system in India, under the direct control of king. The Chief Justice and other puisne (Junior) Judges were appointed by the king. Section 13 of the Regulating Act empowered the Crown to establish by Charter, a Supreme Court of Judicature at Fort William at Calcutta. The Supreme Court was to consist of a Chief Justice and three puisne judges being barristers of not less than five years of standing appointed by king. Sir Elijah Impey, a distinguished English Barrister was appointed as the first Chief Justice of the Supreme court. This Supreme Court would have full power and authority to exercise all civil, criminal admiralty and ecclesiastical jurisdiction. The Supreme Court under the Regulating Act of 1773 was a Court of Record and had the power and authority similar to that of the king's bench in England.

It had the power to issue writs such as *mandamus* and *certiorari*, similar to the jurisdiction of the present-day High Courts and Supreme Court. It also had the power of '*Oyer and Terminer*' i.e. the power to try offences and imprisonment. The Court also had to frame separate rules of practice and procedure for governing its functioning. The Supreme Court had jurisdiction over all British subjects and those residing in Bengal, Bihar and Orissa and had the power to decide all complaints regarding crime, misdemeanors or oppressions.

The Regulating Act of 1773 set up the Supreme Court in Bengal through the Charter of 1774, but it didn't clearly define its powers. Because of this, the Court often crossed its limits, creating a confusion and fear, which Macaulay called a "region of terror." The main problem was about the Court's authority over native Indians. Due to the establishment of Supreme Court of Judicature at Calcutta, Bengal witnessed a spell of struggle between the Government and the Supreme Court. The relations between these two bodies became strained. This act did not lay down any provisions dealing with the relationship between Company's Courts and the Supreme Court. The Regulating Act made the jurisdiction of the Supreme Court concurrent with that of the Adalats. In several instances, the Governor General and the council supported the Adalats, which led to severe friction and conflicts between the council and the Supreme court. Also, the system of check and balances established by this act, made the Governor General powerless before his own council and the executive powerless before the Supreme Court.

The Act of Settlement 1781

Regulating Act did not define the jurisdiction of Supreme Court. Due to the conflicts between the Supreme Court and the Council, the condition of civil and judicial administration in the country became intolerable. The relations between the Court and the Council had virtually reached to the breaking point. To fix this issue British parliament passed the 1781's Act of Settlement.

According to this act, the Supreme Court's powers were limited – it could not interfere in the Governor General and the Council's work in the matters of revenue, or in cases where government officials acted in their official capacity. The Court had jurisdiction only over British subjects living in Bengal Bihar and Orissa – not over all Indians. Appeals from the Provincial Courts could go to Governor General's Council and not directly to the Supreme Court.¹⁷ The question of the jurisdiction of supreme court was settled by this act.

Its jurisdiction was to extend over all the inhabitants of Calcutta.

Judicial Reforms of Lord Cornwallis

Cornwallis separated the judiciary from the executive and attempted to provide justice to the common men. In the organization to the Judicial Courts, civil and criminal, he completed the work Warren Hastings had started. He did some very important reforms in the Colonial judicial system.

1. Cornwallis set up ascending hierarchy; of courts. The lowest courts, presided over by the Indian Munsifs and Sadar Amins, tried petty civil cases. Above them were the District Courts under a British judge who was aided by Indian experts.
2. He also instituted four provincial courts of Appeal at Calcutta, Murshidabad, Patna and Dacca, presided over by three European judges who were also aided by Indian Experts. These courts tried criminal cases and also heard Appeal from District courts.
3. At the top of these courts was the Sadar Diwani Adalat which was presided over by the Governor-General and Council and formed the final court of Appeal.
4. The powers of Collectors were reduced, as they only had the work to collect revenue and not have to perform any kind of judicial work. District Judges were appointed for the administration of Justice in each District.
5. The organization of the criminal courts was on the same pattern as the civil courts. The lowest courts were under a 'Daroga' who heard criminal officers. These daroga's were generally Indians.
6. Circuit courts were established for dispensing the justice in Districts under the English Judges.
7. Cornwallis Code – set of guidance for the servants of East India Company, working in the judicial departments, was created.

The Cornwallis Code of 1793 was very important in shaping the colonial judicial system in India. It was introduced by Lord Cornwallis to bring order, efficiency, and uniformity in administration and justice. The Code separated the functions of the executive and the judiciary, so that judges could work independently without interference from officials. It also set up civil and criminal courts at different levels and reduced the power of zamindars in judicial matters. Though it introduced reforms, it favored Europeans over Indians, since high posts in courts were reserved for the British. Overall, the Cornwallis Code laid the foundation of a more structured and centralized judicial system under British rule.

In the early nineteenth century, further reforms continued. Under Lord William Bentinck (1828–1835), the judicial system became more modern and efficient. He introduced measures to reduce delays and corruption in courts. Most importantly, he promoted the use of the English language in higher courts, replacing Persian in 1837. This was done to unify administration but it also created a gap between ordinary Indians and the courts, since only the English-educated elite could fully participate. During his time, the abolition of practices like *sati* (1829) also showed how colonial laws could change Indian social customs.

Another big reform came with the Charter Act of 1833, which created the Law Commission under Thomas Macaulay. The commission aimed to codify Indian laws and make them uniform. Its work produced the draft of the Indian Penal Code (IPC), though it was enforced later in 1860. This was the beginning of systematic codification of laws in India.

Finally, by the time of the Charter Act of 1853, the British had decided to fully professionalize the civil service and strengthen legal institutions. This act also appointed a Second Law Commission to examine and report on the recommendations of the First Law Commission. The Act opened the door for Indians to compete in civil service examinations (though still held in London), and it laid the groundwork for better-trained judges and administrators.

Thus, from 1793 to 1853, the British judicial reforms gradually moved from experimental arrangements to a more uniform and codified legal system. These reforms introduced modern legal ideas and institutions, but they also reflected colonial control and often served British interests more than Indian needs.

Indian High Courts Act of 1861

After the revolt of 1857, British Crown took over the control of India from East India Company. The Government of India Act, 1858 authorized the British Crown to take over the administration of all the

territories from the East India Company. In 1861, the Indian High Courts Act and the Indian Council Act were passed by the British Parliament, which empowered the king to issue Letters patent establishing High Courts in three Presidency towns. The former provided for the abolition of the Supreme Courts of Judicature and the Sadar Diwani Adalats and the constitution of the High Courts of Judicature in their places in the three Presidency towns. These three High Courts – Bombay, Calcutta and Madras remained as the highest courts of Appeal in the India till the establishment of Federal Court of India, under the Government of India Act of 1935.

The Act allowed the Crown to set up High Courts at Calcutta, Madras, and Bombay by merging the Supreme Courts and Sadar Adalats into one single authority. Each High Court was to have a Chief Justice and up to 15 judges. Out of these judges, some had to be professional judges trained in English law, while others could be experienced Indians or officials with knowledge of local laws. This gave some space for Indians to be included in the higher judiciary. The High Courts had wide powers – they could hear civil, criminal, admiralty, and revenue cases. They also acted as courts of appeal over decisions of lower courts. Another key point was that the High Courts were directly under the authority of the Crown, making them stronger and more centralized than earlier courts. Overall, the Act brought uniformity, reduced overlapping powers, and marked the beginning of the modern High Court system in India, which still continues today.

CONCLUSION

The history of judicial reforms between the Regulating Act of 1773 and the Indian High Courts Act of 1861 confirms the hypotheses of this study. The first hypothesis suggested that the creation of the Supreme Court at Calcutta under the Regulating Act was the beginning of a structured judicial system in India, but also a source of tension. This is clearly supported by historical evidence. The Court applied English law rigidly, often ignoring Indian customs, and this brought it into conflict with both the East India Company and the local population. These conflicts proved that further reform was necessary to make the system workable.

The second hypothesis emphasized that the coexistence of the Supreme Courts and Sadr Adalats created a dual and confusing judicial structure. This is also borne out by the historical record. For decades, justice in India was divided between King's Courts in Presidency towns and Company courts in the provinces, creating inefficiency, uncertainty, and a lack of uniform standards. This duality made the demand for a unified system unavoidable.

Finally, the third hypothesis proposed that the Indian High Courts Act of 1861 not only unified the judicial structure but also laid the foundations of modern Indian courts. The Act successfully merged the Supreme Courts and Sadr Adalats, creating High Courts with mixed benches of English and Indian judges. Along with the introduction of the Indian Penal Code (1860, enforced in 1862) and the Criminal Procedure Code (1861), the High Courts became the first institutions to apply a codified, uniform body of criminal law. This transformation gave colonial justice a more systematic and centralized character, and its legacy continues. The High Courts established in 1862 remain vital institutions today, proving that the reforms of 1773–1861 pioneered the foundations of India's modern judiciary.

References

1. Jain, M. P. *Outlines of Indian Legal History*. Delhi: University Press, University Building, Delhi, 8. (1952)
2. Kulshreshtha, V. D. *Landmarks in Indian Legal and Constitutional History*. Allahabad: EASTERN BOOKS CO. (1959)
3. Larby, C. J. B., "The Centenary of the High Courts of Calcutta, Bombay and Madras." *The International and Comparative Law Quarterly*, Vol. 12. No. 3 pp. 1044-1048 (5 pages). (July, 1963).
4. Tomar, J. K. 2007. *History of Modern India*, Vol. 1. Mahavir and Sons.