
Introduction of British Judicial System in the Central Provinces

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The Central Provinces were constituted by the British government in 1861 under the charge of a Chief Commissioner. However, the British administration had started much earlier in the areas that were brought together under the Central Provinces. Essentially, the Nagpur Province, and Saugar-Nerbudda Territories were combined to form the Central Provinces, and Nimar was added few years later. This paper tries to outline how British judiciary system was gradually implemented in stages starting from 1818.

The State of Nagpore had been ruled by the Bhosale dynasty before taken over by the British. In 1818, the existing king of Bhosale dynasty was removed by the British Resident posted in Nagpur. A minor relative of the deposed king was put in his place and was known as Raghujii III. From 1818 till 1826, the administration of the Nagpore State was taken over by the British until Raghujii III became a major by age. In 1826, Nagpur district was handed over to him and remaining districts were handed over in 1830. Raghujii III died in 1853 without leaving an heir, and Nagpore State was taken over by the British through the Doctrine of Lapse.

Under the Bhosale rule, there was no independent judiciary system. The judiciary was a part of administration. At local levels, Suhabdars held military and civil commands within their jurisdictions. Judicial matters at village levels were resolved by the Patel and then by the Panchayat¹.

From 1818 onwards, there was marked influence of British system in all the areas of administration. Based on the general instructions from the Supreme Government, procedures and principles of law were laid down. The criminal punitive law was based on Bengal Regulations. Few objectionable customs of the society were abolished, such as auction sale of widows, levy of tax on remarriage of widows, and putting “witches” to death. Generally, people were secure in their own law based on the customs and usage, but for criminal punitive law, the system was based on Bengal Regulations. Raghujii III retained this approach to judiciary, but courts lacked that efficiency². After death of Raghujii III in 1853, the courts were conducted on simple and natural principles. The Panchayats were under the supervision of civil courts.

The British were cautious in implementing Bengal regulations because of limited knowledge they had about the local customs and traditions. “Rules for the Administration of Civil Justice in the Punjab and Cis Sutlej Province” was adopted which was commonly known as “Punjab Civil Code”.

Sagar and Narmada Territories were taken over by the British in 1817 and 1818. Sagar was acquired from Peshwas in 1817 and Narmada Territories were taken from Bhosales in 1818. These areas were combined for the purpose of administration under a Commissioner. This region was first governed by special rules issued to the Commissioner and then by the spirit of Bengal Regulations as applicable to the North West Provinces. Native judicial staff was formed with the posts of Principal SadarAmins, SadarAmins and Munsifs.

Nimar was acquired through a treaty with Peshwa in 1818. There was no civil procedure in Nimar until it was amalgamated with the Central Provinces.

After formation of the Central Provinces, certain old positions were abolished such as Principal SadarAmins, SadarAmins and Munsifs. These persons were relocated in the administration. Experienced persons were put in the positions of Tehsildars and Extra Assistants. The judicial duties were carried out by Tahsildars for both civil and criminal cases. The Talukdar assumed the powers of Assistant Magistrate. The next higher positions in the hierarchy were Assistant Commissioner, Extra Assistant Commissioner, Deputy Commissioner,

Divisional Commissioner and finally Judicial Commissioner. Except the top-most position of Judicial Commissioner in the judicial administration, other positions combined both executive and judicial duties. This violated the basic tenet of keeping judiciary strictly impartial³. Quite often, executive issues were given preference and judicial matters were considered of secondary importance. In spite of these drawbacks, this system of administration continued and was also maintained in other parts of India. To make the courts accessible to the people in far flung interior parts, the number of officers was increased in the new arrangement.

Even after bringing administration of justice in some order, there was lack of clarity about the law itself. Different parts of the province had followed their own judicial systems before coming under one administration. The first Chief Commissioner of the Central Provinces, Richard Temple remarked “In other Non-Regulation Provinces even when there were no laws there was yet a rule and system clear and complete. But in the territories newly brought together under the general designation of the Central Provinces, there could be no universal procedures, no general regulation, no complete legal foundation for the conduct of affairs.”⁴

Civil Procedure Act of VIII, passed in 1859, was adopted for the Central Provinces with some modifications. Its implementation was completed by the end of 1862. The Punjab code came to be prescribed as manual for general guidelines. The old Civil Procedures had been lengthy and cumbersome, and the new Civil Procedure Code of 1859 attempted to simplify the process. Act XXVI of 1861 described the new Code of Criminal Procedure. By 1862-63 both Indian Penal Code and Criminal Procedure worked well in the newly formed province.

Tehsildars became the judges in remote locations within their jurisdiction. They could try cases up to Rs. 300 in value. At district headquarters the Deputy Commissioners were the judges for all cases without any value limits. Above district levels, each division had appellate courts of Divisional Commissioners with appellate jurisdiction. There were four appellate courts, one each at Nagpur, Raipur, Jabalpur and Sagar⁵.

Apart from these regular courts, additional Small Cause Courts were established under the provisions of Provisional Small Cause Courts Act XLII of 1860. Two such courts were established in July 1862 at Nagpur and Jabalpur under supervision of Judicial Commissioner. The purpose of these courts was to try simple money suits and give justice speedily without much expenses.

Additionally, there were Cantonment Courts in Kamptee, Jabalpur and Sagar under Cantonment Joint Magistrates and had jurisdictions in civil cases up to Rupees two hundred. By these arrangements the cities and town were well provided with courts for dispensation for justice. However, the interior regions were not so well covered, though the administration believed that “they are not, indeed, advanced to that state of society in which litigations would be largely generated.”⁶

With the formation of the Central Provinces, a uniform judicial administration was put in place in the entire province where earlier there were different prevalent systems in different regions. The codification and simplification of both civil and criminal law along with the procedural law was one of the most effective in attaining some uniformity in judicial administration. It was perhaps a coincidence that at the time of formation of the Central Provinces, new civil and criminal codes were available that could be implemented in the newly formed province.

¹ M. Low, Deputy Commissioner of Nagpur, Settlement to the Settlement Report of Nagpur, 1867, p. 253

² R. M. Sinha, *Bhosalas of Nagpur: The Last Phase, 1818-1854*; (New Delhi 1967), p. 183

³ The Gazetteer of the Central Provinces of India, 1870, p. cxxxviii

⁴ The Central Provinces Administrative Report 1862-63, para 26, p.10.

⁵ The Central Provinces Administrative Report 1862-63, para 35, p. 18

⁶ Ibid.