

How Laws Shaped the History of Early Colonial Bengal

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Introduction:

The early modern history of Bengal—officially a subah (province) of the Mughal Empire—was a period of profound political transformation, one that laid the institutional and ideological foundations for much of South Asia’s later governance structures. While existing historiography has extensively examined the political and military struggles of the era, the role of law—both domestic and international—in shaping Bengal’s trajectory largely remains underexplored.¹ This paper seeks to address that gap by analyzing how legal frameworks influenced the region’s evolving power dynamics, particularly during the decline of Mughal authority and the rise of the East India Company (EIC).²

Historical narratives are inevitably shaped by perspective, and the dominant accounts of early modern Bengal have disproportionately emphasized political and military developments over legal ones. Yet the law was far from peripheral; it operated in nuanced, often indirect ways, mediating conflicts, legitimizing authority, and structuring the interactions between regional and colonial powers. I argue that legal instruments—including treaties, parliamentary statutes, and evolving notions of sovereignty—played a decisive, if underappreciated, role in Bengal’s transition from Mughal rule to Company dominion.

This transition unfolded against the backdrop of the Mughal Empire’s fragmentation, which created opportunities for ambitious regional actors. It created a prolonged power struggle in India, in which the European trading companies participated, siding with some local powers to oppose others. In this evolving political landscape, the EIC, initially a commercial entity, increasingly engaged in political and military ventures, culminating in its pivotal victory at the Battle of Plassey (1757). This event, followed by the Battle of Baksar (1764) and the acquisition of the ‘*Diwani*’ rights (taxation authority) over Bengal, Bihar, and Orissa, marked the beginning

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¹ While legal history in some way captures the evolution of Bengal, in most cases, such narratives are limited to institutional and procedural development. This Article essentially focuses on the legal and political dynamics of India, Britain, and the world, exploring the role of international law in these contexts.

² This Article is significantly influenced and informed by the unpublished Doctoral Research of the Author.

of British territorial hegemony in India. Crucially, these victories were not merely military or political triumphs but were also enabled and consolidated through legal mechanisms—treaties with local rulers, parliamentary charters, and the strategic invocation of international legal principles.

By examining these processes, this paper pursues three key objectives. First, it demonstrates how Anglo-Indian legal frameworks facilitated the EIC's political ascendancy in Bengal. Second, it analyses the influence of contemporary international law—particularly European doctrines of sovereignty and treaty-making—on the conflicts and agreements that followed Plassey. Third, it traces how the EIC leveraged British legislation alongside diplomatic treaties to legitimise and entrench its rule. In doing so, this study not only illuminates an understudied dimension of Bengal's history but also reframes the broader narrative of colonial expansion as a legal as much as a political project.

The paper's examination is limited to the late 17th century through the early 18th century, specifically up to the East India Company Act of 1813. Due to frequent interactions, India's history is partly but significantly intertwined with the histories of the EIC and Britain. This paper will examine the essential and relevant aspects of these histories.

Charters and *Farmans*: The Company's Instruments for Empowerment and Engagement

The East India Company was founded in 1600 with a charter from Queen Elizabeth, and officially, it was a private venture.³ Its founding charter is very detailed, though primarily focused on trading rights, and this document indeed captured all the future potential that the company might find in the distant waters of the East. A glimpse into the Charter provisions provides evidence for it:

....our Royal assent and licence to be granted unto them, that they, at their own adventures, costs, and charges, as well for the honour of this our realm of England, as for the increase of our navigation and advancement of trade of merchandize, within our said realms and the dominions of the same, might adventure and set forth one or more voyages,....., by way of traffic and merchandize to the East Indies, in the countries and parts of Asia and Africa and to as many of the

³ Ramkrishna Mukherjee, *The Rise and Fall of the East India Company: A Sociological Appraisal* (New York, Monthly Review Press 1974) 125.

islands, ports and cities, towns and places, thereabouts, as where trade and traffic may by all likelihood be discovered, established or, had;⁴

A general reading of the charter of 1600 shows that it did not mention ‘empire building’ as a purpose of the EIC. Instead, it empowered the company to operate like a government, even in areas far from England. For example, the EIC was granted several legal powers related to land, which arguably provided the foundation for its forts abroad and thus created a space for its government to function. In the paragraph below, the charter captures the potential:

(The EIC).be and shall be, at all times hereafter, persons able and capable in law, and a body corporate and politick and capable in law to have, purchase, receive, possess, enjoy and retain lands, rents, privileges, liberties, jurisdictions, franchises and hereditaments of whatsoever kind, nature, and quality so ever they be.....And also to give, grant, alien, assign, and dispose lands, tenements and hereditaments, and to do and execute all and singular other things, ...⁵

What’s even more intriguing is that the charter included provisions for defending the Company and its assets during times of ‘restraint’. It mentions-

....in any Time of Restraint, Six good Ships and Six good Pinnaces, well furnished with Ordnance, and other Munition for their Defence, and Five Hundred Mariners, English Men, to guide and sail in the same Six Ships and Six Pinnaces, at all times, during the said Term of Fifteen Years, shall quietly be permitted and suffered to depart, and go in the said Voyages, according to the purport of these presents, without any Stay or Contradiction...⁶

Although the word ‘war’ is absent from the carefully drafted provision of the charter, it essentially indicates that England guaranteed the defence of the EIC in times of armed conflict, during its overseas operations. This commitment is significant because it not only suggests that the State of England or the English Monarch had a clear stake in the Company, but also, for the same reason, the EIC was not simply a private venture of some English merchants. Rather, it was a state-backed enterprise initially to trade in the Eastern waters.

The powers thus granted to the EIC were gradually expanded through subsequent charters that reflected the needs and potential of the time. In the

⁴ John Shaw, *Charters Relating to the East India Company from 1600- 1761* (Madras, The Government Press 1887) 2.

⁵ Shaw (n 4) 3.

⁶ *ibid* 11.

first several decades, the EIC's engagement in India was primarily focused on business; it was conceivably less engaged in politics during that period. A notable expansion of the Company's authority occurred in 1661. The English Crown granted the EIC the charter of 1661, which conferred some state-like powers -

We do grant unto the said Governor and Company of Merchants of London, Trading into the East Indies,.....to assemble themselves, for or about... Trade.....; and to hold court for the same company., and the Affairs thereof: And that also it shall and may be lawful, to and for them, or the more part of them being so assembled,.....to make, ordain, and constitute such and so many reasonable Laws, Constitutions, Orders and Ordinances, as to them, shall seem necessary and convenient, for the good government of the said Company.....; and the same Laws, Constitutions, Orders and Ordinances, so made, to put in use and execute accordingly, and at their pleasure to revoke, or alter the same, or any of them, as occasion shall require: And The said Governor and Company....., in form aforesaid, shall and may lawfully impose, ordain, limit and provide such Pains, Punishments and Penalties, by Imprisonment of Body, or by Fines and Amercements.....upon or against all offenders,.....⁷

So, the company, like the European governments, was able to make laws, enforce them, and impose punishments on offenders while trading in India. Most importantly, the charter of 1661 enabled the EIC to participate in politics.⁸ The carefully crafted language of the charter reflects this permission in the following terms:

We do give and grant.....free liberty and license.....in case they conceive it necessary to send either ships of War, Men or Ammunition, into any their Factories or other Places of their Trade, in the said East Indies for the security and Defence of the same.....to continue or make Peace or War with any Prince or, People, that are not Christians, in any places of their trade, As shall be most for the Advantage and Benefit of the said Governor and Company and of their trade....⁹

Although this charter does not explicitly mention politics, it reflects the language of contemporary political discourse. The grant to 'make peace or

⁷ Shaw (n 4) 37.

⁸ Hence, the EIC, as evident in the historical narrative, did not engage in any major war with the country powers of India during that period. A rather glaring turn of that no-war policy was brought about by the Charter of 1661, which evidently allowed and legitimised the EIC's involvement in Indian politics.

⁹ *ibid* 44-45.

war' encapsulates and legitimises the EIC's involvement in Indian politics to the extent that even war (which arguably is the extreme form of politics) is included if necessary. The phrase, 'make peace or war' also encompasses scope for 'negotiation' or making 'peace' treaties with local powers by the EIC. We will see that the EIC successfully employed all these tools in making its Indian Empire.

The 1661 Charter further authorises the company to establish forts or fortifications in their colonies-

...all Plantations, Forts, Fortifications or Colonies, where the said Company's Factories and Trade are or shall be in the said East-Indies, shall be immediately and from henceforth under the power and command of the Said Governor and Company, their Successors and Assigns;¹⁰

This provision clearly shows the elevated ambitions of the English government in India. While, arguably, forts were necessary for foreign traders to secure their trades and assets abroad, their utility, even in the case of war (against any native state), was undeniable. Evidence suggests that only a few rulers in the mid-18th century questioned/challenged the erection of forts in their territory by foreign traders.¹¹

It is worth noting that the EIC initially adopted a no-war policy in India, particularly with the native powers. Understandably, this was influenced by the fact that the EIC did not have the legal authorisation until 1661. Again, the Charter of 1683 reasserted the abovementioned powers of the EIC, i.e. to make and declare peace and war with the heathen nations; but this time it was accompanied by an even greater power- i.e. the charter authorised the company to raise, arm, train, and muster military forces if necessary and also to execute martial law in India.¹² Factually, the 1683 charter allowed the EIC to appoint Indian natives for the military services of the company. Because of these mandates, a radical shift in the EIC's policy in India can be noticed, and in 1689, the EIC fought its first battle against the Mughal government under Sir Josiah Child's leadership.¹³

¹⁰ Shaw (n 4) 44.

¹¹ One of those who resisted the fortification of the EIC in Bengal was Nawab Siraj-Ud-Daula. See Sudeep Chakravarti, *Plassey: The Battle that Changed the Course of Indian History* (New Delhi, Aleph Book Company 2020) 120.

¹² Shaw (n 4) 71.

¹³ Under the leadership of Sir Josiah Child, the EIC engaged in war with the Mughal Empire (1686–1690). A considerable fleet of England sailed from London to Bengal. On the final count, the EIC lost the battle; still, its engagement in war with the Mughal government, in many ways, signaled its rising ambition in India. See William Dalrymple, *The Anarchy: The East India Company, Corporate Violence, and the Pillage of an Empire* (London, Bloomsbury Publishing, 2022) 23–24.

Though the EIC greatly lost the battle, it was significant for at least two reasons. First, it showed that the EIC was no longer just a trading corporation but was effectively transforming from a trader to a political player in India. Second, the company was also prepared to challenge any Indian ruler if its interests were at stake.

In this regard, it is worth mentioning that in the 18th and 19th centuries, the European armies had a decisive edge against the Asian armies.¹⁴ Conceivably, in these times, the expansive colonial powers of the West were gradually gaining superiority in their military technology, strategy and war-preparedness, leaving the Asian powers much behind. India was no exception. Authorised by the 1661 and 1683 Charters, the EIC was able to develop a superior military power in India. Further, Roy shows that the Indian princes failed to integrate the Western system of war with the Indian traditional methods.¹⁵ In the pivotal battles of Plassey and Baksar, it may be argued that conventional Indian warfare methods failed to yield desired results against the EIC's army.

From the late 17th century, the EIC gradually and increasingly engaged in the politics of the Subcontinent. It is important to note that, while the EIC received a charter from the English Monarch that authorises war against local powers, a *farman* (imperial order) of equal nature and extent was neither sought nor issued in its favour.¹⁶ Nevertheless, it is a historical fact that the EIC or other European powers participated in numerous wars alongside or against one or several native powers according to their needs.¹⁷ This suggests that the involvement of the European powers (including the EIC) in the Indian political landscape gradually gained broader legitimacy.

Alongside the charters, the EIC received several *farmans* from the Mughal government, which lent legitimacy to its trading activities in India. The EIC

¹⁴ Kaushik Roy, 'Military Synthesis in South Asia: Armies, Warfare and Indian Society, c. 1740-1849' (2005) 69(3) *The Journal of Military History* 652.

¹⁵ *ibid.*, 656.

¹⁶ In fact, none of the *farmans* empowered the EIC in like manner. There is, however, only one minor exception. Shah Alam's 1765 mentions "...the said Company are obliged to keep up a large army for the protection of the Provinces of Bengal,...." See CU Aitchison, *A Collection of Treaties, Engagements and Sanads relating to India and Neighbouring Countries, Vol I* (Calcutta, The Superintendent of Government Printing 1892) 57; This is, however, a limited permission, in the sense that the EIC was allowed to keep an army in defence of the Bengal province; in no way it allowed offensive wars of the company with native powers.

¹⁷ In the 2nd Carnatic War, the EIC supported Muhammad Ali Khan as its candidate for Carnatic, while the French Company supported Chanda Sahib. Finally, the EIC won in the competition, making Muhammad Ali the Nawab of Carnatic. See, John Keay, *India A History: From the Earliest Civilizations to the Boom of the Twenty-First Century* (London, William Collins 2022) 379–381.

got its first *farman* in 1613 from the Mughal emperor Jahangir, granting the company permission to trade in India.¹⁸ This gave legality to the trading activities of the EIC in India; it can also be marked as the beginning of formal relations between the company and the Mughal government.

Later, several other *farmans* were also issued, mostly relating to the trading privileges of the EIC. However, the subordinate rulers (i.e. subahdars or, nawabs) sometimes resisted those privileges as they were allegedly against the interest of the state. A notable example was the 1717 *farman* granted by Emperor Farrukh Siyar. This *farman* granted several privileges to the company, including the right for the factory's chief to issue a *dastak* (pass), allowing EIC goods to pass freely without customs inspection, permission to mint its own coins, and the authority to act as Zamindars in various villages in Calcutta, among others. Historical records indicate that the Nawabs of Bengal (i.e., those who ruled before Mir Zafar Ali Khan) consistently challenged all these privileges.¹⁹

An important aspect of the comparison between the charters and the farmans is that the EIC received numerous charters, whereas the Mughal administration issued only a few farmans. While the charters were extensive and written in detailed language, addressing all plausible aspects and potentials with caution and legitimacy, the Mughal *farmans* were mostly limited to the trading activities of the EIC. Fairly, this suggests that many powers and privileges granted by the English Monarch to the Company were not subsequently endorsed or sought endorsement from the Mughal government. This reveals several important aspects of the growing British colony in India. Firstly, it shows that the EIC was more lenient in adhering to British laws and customs in managing its affairs than the Mughal laws. Therefore, the government of the EIC was mimicking British

¹⁸ Mukherjee (n 3) 95.

¹⁹ The Nawabs of Bengal and the EIC engaged in ongoing disputes regarding the privileges conferred by the 1717 Mughal *Farman*. The Nawab of Bengal expressed concerns that these privileges might diminish the revenue collected within the subah (province). This began with the contemporary Nawab of Bengal, Murshid Quli Khan, who opposed certain privileges granted to the EIC. To protect Bengal's interests *vis-à-vis* the company, the Nawab interpreted a relevant stipulation differently. The 1717 *farman* exempted the EIC from taxes while trading. The Nawab was ready to exempt the company from customs duties in the imported and exported goods only, excluding inland trade, while the EIC insisted to include inland trade in the exemption. He also refused to transfer the villages around Calcutta to the Zamindari of the company. Also, Nawab's government expressed concerns over the misuse of *Dastak* by the company. See Ram Gopal, *How the British Occupied Bengal: A Corrected Account of the 1756-1765 Events* (Bombay, Asia Publishing House 1963) 34–38. The same trend was followed by Nawab Siraj-Ud-Daula in 1757. However, everything changed after Mir Jafar Ali Khan ascended the throne of Bengal. He agreed to all the conditions forwarded by his political ally, the company. These privileges continued thereafter, though with minor interruptions during the reigns of Mir Qasim Ali Khan.

rule in India long before the establishment of the company-state in Bengal.²⁰ Secondly, it signals the absence of effective regulatory oversight of the Mughal government to monitor and control the expansion and empowerment of the foreign trading companies in India.²¹ Thirdly, it reveals a contradiction of perspectives—that while the Mughals saw the EIC merely as traders, the British viewed the company not just as traders, but as a government functioning in India.

Despite this significant contradiction, the EIC's mostly unchallenged powers, conferred upon it by both the charters and *farmans*, ultimately succeeded. Empowered by these two separate streams of legitimacy, the EIC gradually became a key political player of the subcontinent. Also, the imbalance of conferred powers (most from the charters and a few from the *farmans*) was of less practical significance in contemporary India. Political facts, as the standard practice of the time, were given importance than legal considerations in precolonial India.²² Therefore, the more the company gained political power or recognition, the less important or relevant the Mughal laws became to it.²³ In simple words, the EIC was growing in India mostly by following the mandates and powers delegated to it by the English charters. A key factor that aided and significantly shaped the rise of the EIC in power in Bengal (and subsequently across India) was the political landscape of 18th-century India.

The Context of 18th Century India and the EIC's Growth:

Following the death of Mughal emperor Aurangzeb in 1707, the authority of the Mughal rulers steadily declined. This empowered local rulers who pursued their own political ambitions. Notably, this was a period when several European trading companies, alongside the EIC, were operating in

²⁰ Syed Masud Reza, 'How International Law Influenced the Development of Nationalism in Colonial India' (Unpublished Doctoral Thesis, SOAS University of London 2025) 90.

²¹ *ibid* 98.

²² This was hinted at by Anand, who pointed out that in precolonial India, *de facto* powers were given more importance than *de jure* powers, as was the standard practice of the time. See RP Anand, 'Universality of International Law: An Asian Perspective' in Thilo Marauhn and Heinhard Steiger (eds), *Universality and Continuity in International Law* (Eleven International Publishing 2011) 92; Anghie, on the other hand, suggests that being influenced by Eurocentric notions of law and sovereignty, the EIC considered 'legal niceties were hardly a concern' in India. See, Anthony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge, CUP 2004) 69; In both ways, however, the benefit of such views went to the company.

²³ This must not be misunderstood with the numerous treaties between the EIC and the Indian states. It should be mentioned that in almost all of these treaties, the EIC, being the dominant power, dictated the terms of the treaties. Hence, it may be assumed that the Company's interests were secured in all those treaties.

India.²⁴ A decaying central authority also sparked ambition among these companies. As a result, wars broke out between and among the native rulers, with the foreign companies siding according to their interests.

However, even during these tumultuous times, the EIC was significantly replicating the agency of the British Monarch on Indian soil. When a war broke out between Britain and other European powers in Europe or elsewhere, the EIC pursued the same course in India. Conversely, if a peace treaty were negotiated between Britain and any other European colonial power (who then traded in India), the EIC would also implement the provisions of that treaty in its Indian colonies. For instance, the British and the French engaged in rivalry in 1740 during the War of the Austrian Succession. This sparked a rivalry between the two trading companies in India, causing the first Carnatic Wars (1740-1748) between the British and the French.²⁵ During this war, the EIC lost Madras to the French company, but in 1748 Britain signed a treaty (the Treaty of Aix-La-Chapelle) with the French government; under its terms, Madras was returned to the British EIC.²⁶

Just a year later, the EIC was engaged in another power struggle with the French company in southern India. It was about succession to the throne of the Carnatic, a vassal state of Hyderabad. In this case, the EIC also succeeded in establishing its choice, Mohammad Ali, as the ruler of Carnatic.²⁷ The Nawab of Carnatic then became an ally of the British Company.

Although 18th-century India had several European companies competing with each other for power and influence, it was the EIC that made India a space where its successes were persistent. The Anglo-French hostility over India, however, continued for a while. In this regard, it is worth noting that the signing of the Treaty of Paris in 1763 marked the end of the Seven Years' War in Europe and significantly brought an end to Anglo-French hostilities in India. In Article XI, the treaty mentions-

²⁴ In the precolonial era, some European companies were trading in India. Of them, the major powers were the EIC, the Dutch, the Portuguese, the French East India company, etc. See for details, Mukherjee (n 3).

²⁵ *ibid* 116. The British and the French fought three Carnatic Wars between 1746 and 1763.

²⁶ The treaty had provisions for general restitution, according to which, Madras was handed back to the EIC in exchange for Louisbourg. See, *The Definitive Treaty of Peace and Friendship between His Britannick Majesty and the Most Christian King and the States General of the United Provinces, 1748*, arts II-4 (London, Edward Owen 1749) 8-10.

²⁷ John Keay, *India A History: From the Earliest Civilizations to the Boom of the Twenty-First Century* (London, Willliam Collins 2022) 379-381.

In the East Indies Great Britain shall restore to France, in the condition they are now in, the different factories which that crown possessed, as well as on the coast of Coromandel and Orixa as on that of Malabar, as also in Bengal, at the beginning of the year 1749. And his Most Christian Majesty renounces all pretension to the acquisitions which he has made on the coast of Coromandel and Orixa since the said beginning of the year 1749. His Most Christian Majesty shall restore, on his side, all that he may have conquered from Great Britain in the East Indies during the present war;.....; he engages farther not to erect fortifications, or to keep troops in any part of the dominions of the Subah of Bengal.²⁸

During this time, an important development occurred in Subah Bengal. In 1757, in the Battle of Plassey, the EIC successfully defeated the Nawab of Bengal, Siraj-ud-Daula, and enthroned its ally, Mir Jafar Ali Khan, as the Nawab. This was a great momentum for the EIC as it became the real power behind the throne of Bengal, the most prosperous and largest Mughal province.

International Treaties, the Battle of Plassey and the EIC's Rise to Power in Bengal

Traditional narratives of Subah Bengal's history, particularly regarding the EIC, the Battle of Plassey, and its aftermath, often overlook the vital role played by international treaties. I have demonstrated that the EIC's long-standing presence in India is closely linked with laws—both native and English—as well as international treaties. Likewise, Subah Bengal was no exception, as the EIC entered into several international agreements with the Nawabs of Bengal at different junctures.

It has already been noted that the EIC had conflicts with the Nawab of Bengal, especially over trade privileges granted through the 1717 *farman* by the Mughal emperor. From 1717 onwards (up to 1757), all the Nawabs of Bengal more or less opposed the tax-free trading privileges outlined in the *farman*. This created a persistent dispute between the Bengal government and the EIC, which was worsened during the reign of Nawab Siraj-ud-Daula. In 1756, the Nawab launched an attack and besieged the EIC stronghold at Fort William in Bengal, further exacerbating the situation. The siege did not last long, as the army of the EIC was successful in recapturing Calcutta and other settlements from the Nawab's forces.

²⁸ See The definitive Treaty of Peace and Friendship between His Britannick Majesty, the Most Christian King, and the King of Spain, 1763 (also known as the Treaty of Paris 1763)
<<https://www.oas.org/sap/peacefund/belizeandguatemala/historicdocs/treaty%20of%20paris%201763.pdf>> accessed 10 June 2025.

Then, the EIC entered into a treaty with the Nawab, known as the Alinagar Treaty of 1757, which granted all the trading privileges of the EIC (enumerated in the 1717 *farman*). Most notably, this treaty allowed the EIC to fortify Calcutta without the opposition of the Nawab²⁹ and also to mint coin in its factory.³⁰ The provisions of the treaty were biased and contradictory to the interests of Subah Bengal. Hence, it was unable to mitigate persistent tensions and distrust between the parties.

To overcome the situation, the EIC deeply involved itself in Bengal's politics. Through diplomacy and secret negotiations with influential nobles of the Bengal court, the EIC secured their support against the Nawab of Bengal. This factually turned the battle of Plassey into an easy scheme for the British. Evidence shows that before the battle, a secret treaty was concluded between the company and Mir Jafar Ali Khan (whom the EIC chose to be the later nawab). In this treaty, Mir Jafar literally agreed to all the demands made by the EIC, including those enumerated in the Alinagar Treaty.³¹

Being one of the earliest treaties signed between a 'chosen' Nawab of Bengal and the EIC, the secret agreement had certain features that hinted at the imperial designs of the company-government. For instance, Article 2 of the treaty declared that the enemies of the company were also enemies of Mir Jafar. Article 3 of the treaty empowered the EIC to hold onto the French settlements and barred further French expansion in Subah Bengal.³² These Articles indicate that the EIC not only aimed to replace the Nawab of Bengal but also sought to influence the state's foreign policy to serve its interests. Another notable provision was Article 11, where the EIC restricted the Nawab's army from fortifying below Hoogley.³³ This treaty not only laid the blueprint for the British rise to power in Bengal, but it also hinted at the ways through which the EIC realised its imperial scheme.

Essentially, the treaty outlined a covenant of betrayal by Mir Jafar Ali Khan, the commander-in-chief of Nawab Siraj-Ud-Daula's army. Consequently, on 23 June 1757, in the battle of Plassey, the Bengal army was defeated by the EIC (led by Colonel Robert Clive) with the support of Mir Jafar and other conspirators from the Nawab's court. Mir Jafar, in return for his support to the EIC's landmark victory at Plassey, was made the new Nawab of Bengal.

²⁹ Aitchison (n 16) 13, art 4.

³⁰ See Treaty and Agreement with Sirāj-ud-Dawlah, 1757 (popularly known as Alinagar Treaty) *ibid* 13.

³¹ *ibid* 16, 17; See Treaty with Jaffier Ally Khan, 1757, arts 1, 8–9.

³² *ibid* 16-17.

³³ *ibid* 17.

In comparison with his predecessor, Mir Jafar was a weak ruler because, through the treaties (signed and endorsed), he sacrificed some important aspects of it. His powers were further diminished in 1763 when the EIC, through a new treaty, forced him to reduce his armed forces.³⁴ The size of Nawab's army was further decreased in 1765 through a new treaty, which effectively made the Nawab of Bengal reliant on the EIC.³⁵ Still, even at the beginning of the 1760s, the EIC's involvement in Bengal's governance was minimal.

However, in late 1764, the British company achieved another significant victory in the Battle of Baksar against the Mughal emperor Shah Alam II and two other Nawabs of the Eastern frontier.³⁶ In comparison with the battle of Plassey, this win was arguably more significant, as the company, for the first time in its history, defeated an army headed by the Mughal emperor. Understandably, this victory took the prestige of the EIC to a new height and made it as the most dominant force in the subcontinent. Following the defeat in the battle of Baksar, the Mughal emperor was forced to sign a treaty with the EIC. Popularly known as the Treaty of Allahabad (1765), it contained a vital provision that granted the EIC the *diwani* of Bengal Province, meaning the right to collect taxes in Bengal, Bihar, and Orissa, in exchange for twenty-six lakhs of rupees yearly to the Mughal treasury.³⁷ The *diwani* of Bengal was indeed a major achievement for the company, as it legally expanded the company's role in Bengal governance.

During these times, Nazam-ud-Dawla, one of Mir Jafar's sons, ascended to the throne of Bengal. With the new Nawab, in 1765, the EIC signed a new treaty, in which the Nawab was required to appoint a Naib Nazim (a Deputy for his office), a company nominee to oversee the *Nijamat* or administrative works for the Nawab. Further, the Nawab could not remove the Naib Nazim without the approval of the EIC.³⁸ Thus, alongside *Diwani* (the rights to collect taxes), through this new treaty with Nazam-Ud-Dawla, the EIC

³⁴ *ibid* 49; See Treaty and Agreement between the Governor and Council of Fort William, on the part of the English East India Company and the Nabob Sujah ul Mulck, Hossam-o-Dowla, Meer Mahomed Jaffier Khan Behau-Der, Mahabut Jung, 1763, art 6.

³⁵ Aitchison (n 16) 54–55, art 4.

³⁶ The war was fought between the company forces and the combined forces of Mir Qasim (the Nawab of Bengal, following Mir Jafar's brief deposition from the Bengal throne), Shuja-ud-Dawla (the Nawab of Awadh), and the Mughal Emperor Shah Alam II.

³⁷ CU Aitchison, *A Collection of Treaties, Engagements and Sanads relating to India and Neighbouring Countries, Vol II* (Calcutta, Government of India Central Publication Branch 1930) 244.

³⁸ Muhammad Reza Khan, a native Indian, was the EIC's appointee as the Naib Nazim. See PE Roberts, *History of the British India under the Company and the Crown* (Oxford, OUP 1970) 153.

secured the right of *Nijamat*, or the legal authority to govern Bengal, by 1765. However, in practice, a slightly different form of government emerged. In this government, the responsibilities remained in the hands of the Nawab and his deputy, but the true power was with the company. It was known as the dual system of government. The dual governance, based on the division between power and responsibility, which proved largely ineffective for the Bengal province, persisted until 1772.³⁹

Some Key Acts of the British Parliament for the Governance of Colonial Bengal:

In 1772, Warren Hastings, the governor-general of the company, abolished the dual system of governance in Bengal. Simultaneously, there was a recognised need in England to reorganise the company and gradually place its affairs under the control and supervision of the British government. Hence, in 1773, the British Parliament enacted the East India Act of 1773, also known as the Regulating Act.

The early British settlements in India were spread across a vast geographical area, each with its own government to manage its affairs; these were relatively autonomous from one another and could function according to their varying preferences. Practically, there was no hierarchy among these governments, though all of them followed the same British charters. The Act of 1773 provided a clear framework and hierarchy of the Bengal government, consisting of one governor-general and four counsellors.⁴⁰ This governor-general and council had the supreme authority over all British possessions in India.⁴¹ Under this charter, a Supreme Court was established in Calcutta, along with courts for handling criminal and civil cases in all British settlements.⁴² The indications of the Act were very clear. Having won two successive battles and defeated Indian rulers along with the Mughal emperor, the EIC became a formidable power whose imperial ambitions were then beginning to take shape. Through successive initiatives of the British government, India was gradually transforming as British India.

The East India Company Act of 1784 was another vital piece of legislation. It mandated the establishment of a supervisory body known as ‘Board of

³⁹ See ‘Administration’ (*Banglapedia*, 17 June 2021)

<<https://en.banglapedia.org/index.php?title=Administration>> accessed 11 June 2025.

⁴⁰ The Charter Act of 1773, s VII; See for details, *The Statutes at Large from the Tenth Year of the Reign of King George the Third to the Thirteenth Year of the Reign of King George the Third, inclusive*, vol 11 (London, Charles Eyre and William Strahan 1774) 816.

⁴¹ The Charter Act of 1773, *ibid* s IX.

⁴² *ibid* 817, s XIII.

Control', which would work from London, above the court of directors. The Board of Control was assigned-

...to superintend, direct, and control all acts, operations, and concerns which in anywise relate to the civil and military government, or, revenues of the British territorial possessions in the East Indies.⁴³

If the 1784 legislation is carefully examined, it reveals that the British government effectively established two layers of control over the company. First, the 1773 Act reorganised the company's Indian administration under the authority of the governor-general of Bengal. All British possessions then fell under this unified system, now more consistent and centrally managed. The 1784 legislation, however, created a superior body that exceeded the powers of the Court of Directors, who were the company's shareholders. There was another significant change: the company's possessions in India, as referred to in the 1773 Act, were described as 'possession of the said Company'; however, in 1784, the Act declared these to be the 'British territorial possessions'. Clearly, the British government was taking charge of all the acquisitions of the EIC in India. Still, we see that even in 1784, the British government did not declare its sovereignty.

However, in 1813, by the Charter Act, the British government made it public, declares "... undoubted sovereignty of the Crown of the United Kingdom.....in and over the said territorial acquisitions....."⁴⁴ The declaration was not very precise, as to the territorial limits of British possessions; but arguably, it was a declaration mainly necessitated by domestic and international implications. However, the existence of the Mughal emperor, who had long been regarded as the traditional sovereign of India, made the British claims somewhat paradoxical. Nevertheless, it can be said that from 1813 onwards, the British Crown held sovereign authority, which was in fact more tangible and effective than any Indian competitors.

Conclusion

The early colonial history of Bengal underscores the pivotal yet often overlooked role of legal frameworks in shaping the transition from Mughal rule to British dominance. Far from being a mere backdrop to military and political conquests, law—whether in the form of royal charters, Mughal *farmans*, or international treaties—served as both an instrument and a legitimising force for the East India Company's ascendancy. The Company's transformation from a trading entity into a territorial power was

⁴³ Sir Courtenay Ilbert, *The Government of India A Brief Historical Survey of Parliamentary Legislation Relating to India* (Oxford, OUP 1922) 63.

⁴⁴ *ibid* 179; The Charter Act of 1813, s XCV.

not solely the result of battlefield victories like Plassey (1757) and Baksar (1764) but was equally enabled by strategic legal manoeuvres. Treaties such as the Alinagar Treaty (1757) and the Allahabad Agreement (1765) formalised the EIC's political and fiscal control, while British parliamentary acts like the Regulating Act (1773) and Pitt's India Act (1784) institutionalised colonial governance. All these initiatives reached a peak when the Charter Act of 1813 officially declared British sovereignty over Indian territories. In reality, this marked the point at which Britain's claims over India gained international recognition.

This study reveals that the EIC's expansion was as much a legal project as a military or economic one. By exploiting gaps in Mughal oversight, leveraging European doctrines of sovereignty, and progressively eroding indigenous authority through treaties and legislation, the Company laid the groundwork for British imperialism in India. The legal narrative of colonial Bengal thus challenges traditional historiography, demonstrating that empire-building was not merely an exercise in brute force but a calculated process of juridical entrenchment. Ultimately, the laws that facilitated the EIC's rise also foreshadowed the systemic subjugation of Bengal, marking the beginning of a colonial legal order that would reshape South Asia's political destiny.

By examining this intersection of law and power, we gain a more nuanced understanding of colonialism—not just as conquest, but as a deliberate, legally sanctioned reordering of sovereignty. The legacy of these early legal frameworks endured long after the Mughal Empire's decline, embedding structures of governance that would define British rule in India for centuries to come.