

The Mughal Administration of Justice: An Appraisal



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Abstract *In the history of the Indian subcontinent, the claims that the science of administration of justice reached its apex during the period of the Great Mughals are critically investigated in this paper. Though the Mughals' initiatives were oriented to public and social welfare, their absolute authority over the state cast shadows on the system they introduced, one of which was administration of justice. With the help of qualitative research methodology, this article examines whether the Mughal system of administration was meant to dispense with justice and uphold welfare of the people or it was just a replica of the police state where sovereignty was exercised in a dictatorial manner.*

Key Words: Mughals, Administration, Subcontinent, Justice, India, Pakistan

Introduction

The Muslims thronged to the Indian subcontinent after *Sindh* was invaded by *Muhammad Bin Qasim* in 712 AD. Later on, *Qutbuddin Aibak* of the Slave Dynasty established the first *Sultanate* of Delhi. Five different dynasties, namely: the *Slaves*, the *Khiljis*, the *Tughlaqs*, the *Sayyids* and the *Lodis*, ruled the subcontinent from 1206 to 1526 until *Ibrahim Lodhi* was defeated by *Zahiruddin Babar* who founded the first ever Muslim Empire in the subcontinent. India firmly remained in the hands of the Mughals until 1706, after which it gradually descended into the hands of the British. The British formally took over India in 1857 after the native defeat in the War of Independence ([Munir, 2012](#)). History explicate that the Muslim rule was at its apex during the period of the Great Mughals and there arrived a golden period of people-oriented reforms in all aspects of administration. The Indian society was a heterogeneous one consisting of the Muslim, the Hindu and the Buddhist, making equitable administration of justice indispensable for a viable political dispensation. *Akbar* was an administrative genius, unlike his predecessors (*Babur* and *Hamayun*) who were overly preoccupied with the consolidation of the newly founded empire ([Ali, 2008](#)). The Mughal administration of justice was partly borrowed from Central Asia and Persia, which was delicately blended with the indigenous modes of administration. Furthermore, the Mughals also incorporated various administrative norms, as practiced by the Sultans, into the new system. Undoubtedly, the Hindu justice system was also intact in the Hindu states existing at that time. *Akbar*, in his political wisdom, must have been attracted to the adjustable norms of Hindu justice system, which he later incorporated into his own system. As a result, the Mughal system of administration was admired and adopted by the contemporary *Rajas* of vassal and independent Hindu states, which was modified and retained by the British ([Sarkar, 1935](#)). In order to run the state affairs, the Mughal Emperor delegated authority to the state functionaries. This authority, however, was ministerial in nature and the functionaries were not allowed to use their subjective judgment; rather they had to act according to the directions of the emperor who was the final

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authority in any matter. Likewise, there was no authority or document which could control the misuse of king's power.

This paper, with qualitative research methodology, examined how the Mughals designed and operated the bureaucratic structure in the Indian subcontinent and how their dynasty continued in its effect for more than two centuries. This work also highlighted the capabilities of the Mughals' emperors who, through seven generations, maintained the empire's administrative organization. For its operational framework, the research has been divided into the following segments: in first segment of the research, an overview of the Mughals epoch along with corresponding challenges has been given. In second segment, the administration of justice in context of the Mughal regime has been given. In third segment of the research, main heads of the Mughal administration of justice have been examined, which included administration both at central and provincial levels, judicial system, office of the *Muhtasib*, and mechanism for remuneration to the state officials. In fourth segment, sovereign status of the king, his officials, and status of *Shariah* has been explicated. In last segment, the research article has been concluded.

The Mughals' Administration of Justice

The administration of justice refers to the provision of justice to the masses by fair and equitable treatment. The positivists define administration of justice as the maintenance of civil and political rights by the state by means of physical force. With the advent of the concept of modern welfare state, the administration of justice is regarded as the maintenance of primary rights of the masses, which is the basic duty of the state. Historically, the concept of administration of justice is as old as the era of cavemen. Logically speaking, human efforts towards having a society were associated with leadership. Further, ancient people realized leadership as a source of their guidance in various spheres by men of wisdom and caliber. The ancient efforts of having leadership can be corresponded with the initial traces of administration of justice. Despite the fact, there is no authentic evidence as to the historical genesis of these traces in terms of exact time. Nonetheless, it is believed that the concept of a police state is considered to emerge from this search, where the administration, by that time, was entrusted with ministerial functions only ([Munir, 2011](#)). To some extent, the Mughal Empire was also a replica of a totalitarian state where the absolute authority was concentrated in one hand, i.e., the king who ultimately established its despotic hegemony. Nevertheless, the political system around the world has been passing through an evolutionary process where the concept of police state, a dictatorship, and totalitarian state are no longer compatible with basic human rights and the police state has now developed into a modern welfare system.

The Mughals' principles of administration of justice were mainly foreign and partly Indian, influenced by Persio-Arabic elements intermingled with the native trends. The Mughals imitated most of the administrative system by making a compromise between the native and foreign system: this include such areas as principles for governance, taxation rules, church policy, departmental arrangements, and their officials' titles. In order to meet the indigenous needs, the imported system was modified and transformed with the passage of time ([Ali, 2008](#)). Moreover, the Mughal Government was essentially military in nature whereby every officer in the state had to be enrolled in the army list. Keeping in view the hardships in the governance of a heterogeneous society, coupled with internal and external aggression, the Mughal Emperors would have realized that regulating the lives of people according to public inspirations and redressing the grievances of the masses were inescapable necessities. Even though, foreign trends were merged with their own system of administration to meet the indigenous needs, yet the legislative, the executive, and the judicial fabric had its foundation on mercy of the King who had absolute authority to dispense with any matter. To further conceptualize the arguments, it is pertinent to describe the administrative mechanism of the Mughals. In the next segment, main heads of the Mughal administration will be investigated.

Main Categories of Mughals' Administration

The two early emperors of the Mughal kingdom remained busy in the consolidation of the Empire. *Babar* had recently defeated the *Lodhis* and the *Hindus* but the rebellious elements were raising their heads and *Babar* had to deal with them. When *Humayun* ascended to the throne, the Mughal Empire was in utter chaos and confusion and he struggled throughout his life to consolidate the Empire. Due to internal and external elements, *Humayun* was defeated by *Sher Shah Suri* and was compelled to seek refuge in Persia. *Humayun* entered Delhi victorious in 1555 AD and took back the throne shortly before he died in 1556 AD after lifelong struggles. In the words of Stanley Lane-Poole, "He tumbled through life, and tumbled out of it" ([Lane-Poole, 2007, p.237](#)). The true administrative setup of the Mughal Empire is regarded as having been founded by his successor, *Akbar*. Conversely, as the annals of history depict, it cannot be denied that most of *Akbar's* reforms were borrowed from the setup developed by *Sher Shah Suri*. For this reason, the latter is also regarded as the fore-runner of *Akbar the Great* ([Ali, 2008](#)). The main heads of Mughal administration are discussed below, with a focus on the provisions of basic necessities and the protection of civil and political rights of the masses.

Central Administration

The political division of the Empire under *Akbar* was practically same as in time of *Sher Shah Suri*. The administrative affairs of the state were dealt with by a number of ministers along the lines of the present day Federal Secretariat. All the ministers were at the disposal of the Emperor and were not considered his advisors, rather his pupils. They were headed by a Chief Minister designated as *Vakil* who functioned as liaison between the Emperor and the rest of the officials. The *Vakil's* authority was merely titular when the king was an adult, but when the Emperor was a minor the *Vakil* wielded great authority, as was evident in case of *Bairam Khan* when he acted as a regent of *Akbar* ([Ali, 2008](#)). The financial and general supervision over administrative functionaries was exercised by the *Dewan*, who was assisted by various ministers. The persons with the above-mentioned portfolios were concerned with purely administrative functions. There were mainly three offices for dealing with financial matters: the *Diwan-i-Kull* that dealt with the whole fiscal administration, the *Diwan-i-Khalisa*, which was responsible for looking after revenues from different sources and the *Diwan-i-Tan* that dealt with the distribution of money in the form of stipends to the *Mansabdars* (officials) and the princesses ([Schimmel, 2005](#)). So, the Mughals can be credited with a refined system of revenue and financial division whereby the money was collected and circulated in a specified manner. But there was no mechanism to check or advise the autocratic functions of the King. Similarly, history does not provide evidence of any precedent whereby the king could be impeached by the so called ministers or prosecuted at any court of law.

Judicial System

In the Mughal epoch, the hierocracy of courts and the independence of judiciary came to the fore. In *Aurangzeb's* era, courts were extremely independent, having no comparison in the entire Empire. The courts were so independent that it had even declined *Aurangzeb's* personal desire of execution of a convict, to whom the court had already awarded death sentence ([Munir, 2012](#)). Since inception of the Muslim Empire in the subcontinent, cases were categorized as civil, criminal, political, and administrative in nature. Both *Akbar* and *Aurangzeb* devoted one day of the week to entertaining cases, especially for those which were political and administrative in nature. The place where the emperor used to listen public grievances was known as *Diwan-i-Mazalimat* also termed *Diwan-i-Khas*. The King was to be accompanied by a *Qadis*, a *Mufti*, a *Pundit*, a *Kotwal*, a *Darogha-i-Adalat*, and a *Mohtasib*. Plaintiffs were to be presented one by one before the Emperor who dispensed with justice after consultation with the *Muftis* in case of disputes between Muslims, or after consultation with the *Pundit* if the matter of controversy was between Hindus. Similarly, where a dispute was between a Muslim and a Hindu the Emperor had to consult both the *Mufti* and the *Pundit*. Furthermore, the emperor, who had to confirm the

capital punishments, was also considered as a final forum of Appeal ([Munir, 2012](#)). It is unimaginable that appearing just once in a week in court to address the sufferings of subjects across the huge territory of the subcontinent was sufficient to foster welfare of the people and to dispense with expedited justice. However, in general, the Mughal emperors were considered sufficiently impartial to dispense justice indiscriminately. They were thought to be able to treat everyone equally, whether they were relatives or strangers, Chiefs or laymen ([Fazal, 2010](#)).

The central administration of justice was done by the central judicial system. The chief judicial functionary of the state was the *Qazi-ul-Quzat* who was appointed by the emperor to hear appeals and supervise the provincial courts. He was to be assisted by *Mufti* and *Mir Adl*: the former was given the duty to expound the law on which the *Qazi* would deliver the verdict, whereas the latter was associated with the functions of bringing the parties to the court and enforcing the decrees ([Fazal, 2010](#)). Similarly, there was a Chief *Qadi* of the provincial court that dealt with all the cases which were civil and criminal nature and served as the highest forum of appeal within the province. In the capital, the military had its own judge, *Qadi-e-Askar*, who moved from place to place with the troops and whose office corresponds to the present day Court Martial. The *Sad'sr-us-Sudur* was in charge of ecclesiastical department. Unlike prevailing judicial systems where judiciary is projected as an independent state organ and in which judges enjoy constitutional immunity, in the Mughal era judicial officers were at the mercy of the king, who had the ultimate authority to dispose of any matter and had hardly taken any steps to protect the judicial officers in terms of their employment or to curtail irrationality in their decisions.

Provincial Administration

The Mughal Empire gradually expanded until, in *Aurangzeb's* era, it was the largest Empire in Indian history and consisted of twenty-one provinces ([Eraly, 2008](#)). The effective administration of state affairs required the administrative division of the state, so the Empire was divided into a number of grade units, or *Subas* (provinces), each headed by a governor called *Subedar*. The *Subedar* was responsible for the maintenance of law and order in the provinces, to enforce Imperial decrees, and help in the collection of revenue. He was assisted by a number of ministers whose responsibilities corresponded to the portfolios in the departments of the central administration ([Ali, 2008](#)). Towards the close of Akbar's reign, the revenue powers were taken away from the *Subedar* and were given to the *Dewan*. So, the whole provincial setup was a replica of the central government ([Eraly, 2008](#)).

The *Subas* were further divided for revenue purposes into *Sarkars* and *Paraganas*, headed by *Naib Subidar* and *Amirs* or *Shiqdars* respectively. The *Sarkars* and *Parganas* were equal to districts and sub-districts respectively in the modern administrative dispensation. So far as the Military administration was concerned, *Subas* were divided into *Faujdaris*, headed by *Faujdar*s that were further divided into *Thanas* headed by *Thanidars*. The revenue division was made for the collection of public revenue and the enforcement of civil and proprietary rights of the citizens. On the other hand, the Military division was made for the protection of lives and properties of the masses.

In the times of the Mughals, the major towns and cities had their own administrative setup under the *Kotwals*, who had the power to try petty criminal cases such as those punishable under the present day Municipal Acts ([Ahmad, 1941](#)). Originally, the *Kotwal* was the commander of the fort, but the Mughals made him responsible for civil administration. The *Kotwal* was assisted by the officers in charge of the wards (*Mohallas*). *Abul Fazal* states that the *Kotwal* was delegated the authority to engage the citizens in a pledge of mutual assistance. *Thevenot* says that the *Kotwal* was the person who was assigned the duties of the Criminal Judge. Finally, the contemporary historian *Badayuni* states that the *Kotwal* was also the Chief Officer of the Police who was assigned the duties of taking cognizance of matters pertaining to streets and houses of the city as well as locating the robbers and the violators of law ([Ahmad, 1941](#)). To run the affairs of the province, the provincial administration was satisfactory. Nevertheless, there was no distinctive line whereby pure judicial and pure executive functions could be distinguished.

The Muhtasib

The Office of the *Muhtasib*, who in the modern dispensation of justice is also termed as the Ombudsman, was entrusted with various functions in the Mughals' era: in the state's cases, he served as a chief public prosecutor, chief censor of morals, and he had authority to examine weights and measures, to ensure that there were fair price mechanisms in the market, to recover debts, and to supervise the provision of infrastructure in streets and markets. To some extent, office of the *Muhtasib* was also conferred with the functions of religious affairs, regulation of the Hindu and the Muslim Laws, including the duty to report apostasy and blasphemy, and thereby to secure punishment for the guilty ([Saxena, 2007](#)). The *Muhtasib* was assisted by *Mansabdars* and footmen (*Ahadis*) ([Ahmad, 1941](#)). Thus, the office of the *Muhtasib* was meant to discharge multifaceted functions: on one hand, it had to look upon the quality and quantity of the daily commodities. On the other hand, it had to manage and regulate the religious affairs. Nonetheless, the quintessential purpose of the office was to secure the welfare of the people and to manage state affairs for the advancement of good governance and the administration of justice. The scope of a modern Ombudsman is limited as compared with that of *Mohtasib* in the Mughal era, which was responsible for a variety of functions. In the scenario just described, there lurks the apprehension of jurisdictional clashes among the state officials in the performance of their duties, with the result of inconsistent decisions being made when a matter with the same facts is placed between two different officials exercising jurisdiction over the same matter.

Remunerations of the Public Officials

The public servants of the Mughal Government enjoyed, *inter alia*, high stipends in the course of their employment. Government officers received their salaries in two ways: either they were paid in cash from the state treasury or occasionally they were granted *Jagirs* (property, more specifically in the given context, agricultural land) for a temporary period without any ownership rights over it. But they were only allowed to collect and enjoy the land revenue equivalent to the amount of their salaries from the assigned *Jagirs*. The act of collecting any excess not only involved injustice towards the cultivators, but also was considered as a fraud against the state. To overcome the probability of undue monopoly and sovereignty over the *Jagirs*, like *Sher Shah Suri*, Akbar was justified to pay them in cash instead of *Jagirs* ([Majumdar, Raychaudhuri, & Kalikinkar Datta, 2011](#)). Taking into account the fact that the *Jagirdars* could manipulate *Jagirs* capriciously, the Mughal Emperors devised monetary policies for the public functionaries that would simultaneously advance their standard of living and countercheck their excesses.

Sovereignty of King

In all external and internal affairs of the kingdom, the king enjoyed absolute authority, which was not subjected to any control, in order to avoid exploitation of authority ([Ahmad, 1941](#)). The Mughal king denied sovereignty of other rulers both inside and outside of the empire ([Eraly, 2008](#)). The King concentrated all legislative, executive, and judicial powers. Till the end of Akbar's era, even princes were not allowed to sit on the throne ([Aziz, 2002](#)). Due to his absolute authority, king's decisions were considered expeditious and impartial ([Ahmad, 1941](#)). There was no mechanism to regulate king's authority. In same parlance, the *Wazir* or *Diwan* was the second highest official after the king who was entrusted to decide matters without taking confidence of other state officials. Nevertheless, during king's private consultation or *Diwan-i-Khas*, the officials were authorized to attend the emperor's court wherein they could render advice, but could not give a dissenting opinion ([Sarkar, 1935](#)). During the Mughal rule, *Shariah* was declared as supreme law of the land. Later on Akbar assumed himself as supreme arbiter ([Ali, 2008](#)), which was rolled back by *Aurangzeb Almgir* by providing sanctity to the *Shariah* laws. Unlike criminal laws where both Muslims and Hindus were equally treated, in civil matters Islamic laws were applied to Muslims only. With certain exceptions, the Mughals were benevolent despots who took various initiatives to ensure expeditious dispensation to the masses, which was the primary object of the state

(Lefevre, 2007). For instance, Emperor *Jahangir* instituted chain of justice for redressing public grievances.

The administrative structure of the Mughals' regime has greatly influenced the modern bureaucratic fabric. Both in India and Pakistan the same bureaucratic structure, with certain modifications according to the need of the modern society, has been followed. For instance, the federal secretariat and provincial administration perform identical functions to those that were evident in the Mughals' system. In the Mughals' administrative structure, to regulate the state affairs, the emperor had delegated a limited authority to the state functionaries where they were hardly allowed to use their discretion. They were entrusted with limited ministerial authority under which they could not use their subjective judgments, rather served at the mercy of the emperor. These ministers were not authorized to control or advise the emperor in any matter. In the Mughals' reign, the judiciary was not presented as an independent state organ, despite the modern judicial hierarchy mimics the one established by the Mughals. The emperor was not only considered as fountain of justice, but also had complete immunity from prosecution of every kind. There was no protection to the judges in terms of their tenure and removal from office. The judges had to serve at the mercy of the king. Due to lack of impartiality, the courts' decisions must have been motivated by the king's influence and must have necessarily represented the will of the king, which led to the apprehension of biased decisions.

Conclusion

To encapsulate, the Muslims ruled the subcontinent after the invasion of Sindh, which lasted until the war of independence, 1857. The Mughal regime in the Subcontinent reached its heights in the administration of justice before the introduction of representative democracy by the British. The Mughals, keeping in view the indigenous needs, borrowed a prominent portion of administrative practices from the Persio-Arabic system and mingled it with its native setup to ensure the welfare of people. Although the founders of the Mughal kingdom could not pay the desired level of attention to the administration of justice because they were engaged in consolidating the newly established Empire, history credits Akbar with the installation of a true administrative system, having been influenced by Sher Shah Suri. The leadership, in terms of public reforms and welfare, as claimed by the historians, reached its apex in the reign of Mughals. Nonetheless, the King, being the ultimate and absolute sovereign, could use the administrative and legal system for personal whims. All the state organs and their authority were subject to the mercy of the King, who possessed unlimited authority. The concept of devolution of powers was out of the question. The division of state functions was aimed only at facilitating the King's ability to rule the populous. Central administration was one of the main areas of the administration in which the Ministers were at the disposal of the King. *Vakil*, being the highest official, served as a liaison between the Emperor and the rest of the Ministers. The central administration was dealt with by the ministers who were delegated with ministerial functions. This ministerial setup can be compared to the present day cabinet. The *Dewan* was entrusted with the financial and general supervision. The officials were delegated with the authority to run the affairs of the state but they could not challenge nor restrict any capricious act of the Emperor.

To ensure expeditious justice to the masses, reforms were brought about in the judicial system as well. The hierarchy of the courts, reforms in the system of appeals, and the disposition of the criminal cases on daily basis are the achievements of the Mughals. The contributions of Aurangzeb in the reformation of the judicial system can never be taken for granted, as some of the reforms are still intact and are being practiced both in India and Pakistan. The central judicial system of Mughals was comprised of three main heads, i.e., the *Mufti* to expound the law; the *Qazi* to deliver the verdict and the *Mir Ad'l* to ensure the presentation of the parties in the court and the enforcement of decrees. Despite of the claims of judicial autonomy, the Mughals had hardly taken any initiative to secure the judicial officers, and their services revolved around the mercy of the King who intruded irrationality in their decisions. Similarly, no such legislation was

enacted nor proposed to prosecute the King in any court of law. The King was considered above the law and there existed no parameters to counter the King.

The Provincial administration was the replica of the central administration. For effective administration of the state affairs, the Empire was divided into administrative units, headed by a *Subidar*; termed as governor in the modern manifestation of the bureaucratic fabric, as assisted by a number of Ministers to run the affairs of the state. Nevertheless, no mechanism was devised that could differentiate between pure judicial and executive functions. In *Subas*, the administrative mechanism, language and the rules and regulations reflected administrative unity in all the concerned provinces. Moreover, the hierarchy from *Subas* to *Parganas* was administered by the state designated officials from *Subedar* to *Kotwal* respectively. Unlike modern world Ombudsman, the *Muhtasib* was entrusted with various functions, e.g., public prosecutor to represent state in criminal cases, to examine weights and measures, to recover debts, to inspect infrastructure of streets and markets and to look after some of the religious affairs. The state officials were highly remunerated for their services either in form of cash or *Jagirs*. However, to avoid a monopoly over *Jagir*; Sher Shah Suri and Akbar were reluctant to confer the same to the state officials. In running affairs of the empire, the emperors conferred certain powers on the officials, but kept themselves with the ultimate authority for addressing public grievances, which in modern manifestation may be corresponded with the concept of totalitarian state. However, the reforms brought about by the Mughals cannot be overlooked, which are still practiced both in India and Pakistan in its modern manifestation of welfare state.

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