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Corruption and Malfeasance as a Catalyst for East India Company State-building, 1784-1858

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Abstract

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Corruption generally describes abuse of power by officials in the public sphere, while financial crimes pertain to abuse of power by managers in the private sphere. As a quasi-sovereign commercial body during the late eighteenth and early nineteenth centuries, the East India Company provided an environment where the lines between the two types of malfeasance blurred. Historical scholarship on corruption and malfeasance by Company servants and officials has been extensive, discussing issues from unsanctioned private trade to more patently illegal fraud, embezzlement, and bribery. A major point of disagreement has been on the extent to which the East India Company (and, indirectly, the English Crown government) responded to and successfully enforced sanctions for such violations of policy and contract. Through an analysis of general correspondence and legal documents concerning these violations, I argue that the Company took these crimes seriously and took action against violators, in some cases even when the cost of doing so exceeded the value of recoverable monetary losses. I will also argue that, despite prejudices against natives in general and in the justice system, Company directors were open to the use of native testimony against English officials when it strengthened their case. These conclusions suggest that motives existed beyond just commercial interests, and that political interests and broader imperial ambitions were more significant factors.

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Introduction

Early in the morning of July 22, 1843, an English merchant vessel ran aground at the port of Bunder Abbass on the Persian coast. According to the testimony of the ship's captain, the ship was left stranded and robbed as the crew awaited aid. The captain maintained that the culprits were the natives who had come aboard in order to assist with moving the ship back into deeper waters.¹ Instead of being written off as a relatively common occurrence of piracy, however, the incident was subject to a yearlong investigation. In its attempts to prove whether the robbery had actually occurred, or if the captain had stolen from the ship and fabricated the story of robbery, the East India Company's (hereafter referred to as EIC) Court of Directors collected testimony from the captain, the crew, and an assistant of the local Sheik. Later on, the Company even employed naval commanders to conduct a thorough investigation.

This thesis aims to understand whether this degree of suspicion and investigative effort on the part of the Company's directors was common in their approach to potential transgressions or misconduct by its employees, or if this case was merely an exception. More importantly, the thesis will attempt to place the Company's stance on managerial misconduct and malfeasance within the context of the complex relationships and interactions between Company directors and agents. Instances of managerial misconduct and malfeasance may take the form of embezzlement in official departments, accounting fraud by Company Revenue Collectors, or corruption by native agents operating under Company authority. Although the specific types of misconduct might vary, they are characterized by an abuse of power, operation outside the bounds of permissible conduct, and a harmful effect on general Company interests. The types of

¹ Letters received by Arnold Burrowes Kemball, July 1843 – December 1843, IOR/R/15/1/100, folios 4-12, 18-20, India Office Records and Private Papers.

malfesance in this study are thus broader, but more blatantly illegal, than the acts of private trading upon which scholars such as Emily Erikson and Ann M. Carlos² focused.

The legal significance of such misconduct lay in its relation to Company business and government administration – that is, such an act was a simultaneous violation of both Company policy as well as English colonial law. Under present-day business circumstances, company response typically remains separate from legal consequences, at least until criminal charges are made or civil action is taken. On paper, this appeared to be the case for the East India Company. Bylaws for corporate governance specified that if a Director or “any other Officer or Servant of this Company” was guilty of “willful Breach of any of the Bylaws to which any other Special Penalty is annexed,” he would be dismissed from the service and disqualified from holding any future office.³ Although these procedures were indeed followed for the most part, the actual consequences for many violators included criminal sanctions and monetary fines in addition to dismissal and disqualification. Furthermore, the mention of “other Special penalty,” left open the door to additional sanctions not initially determined.

The core of the argument is that while there were economic and political incentives to punish corrupt officials and subjects, the very existence of malfesance served as an impetus for the expansion of imperial control. Just as the possibility of complex accounting fraud creates the need for extensive regulatory bodies in present-day business, the prevalence of embezzlement or fraudulent reporting of finances justified the increasingly supervisory role of the Crown, which was exercised through the Board of Control. The argument will be supported first by an analysis

² Emily Erikson and Peter Bearman, "Malfesance and the Foundations for Global Trade: The Structure of English Trade in the East Indies, 1601–1833," *American Journal of Sociology* 112, no. 1 (2006): 195-230; Ann Carlos, "Principal-Agent Problems in Early Trading Companies: A Tale of Two Firms." *American Economic Review* 82, no. 2 (1992).

³ *By-laws for the Government of the Corporation of the East-India Company* (London: East India Company, 1836).

of cases and investigations that point to the ease with which malfeasance was possible, and then by analysis of outcomes suggesting that political implications heavily outweighed the monetary losses of corruption and malfeasance. Lastly, the argument will rely on language within correspondence and regulations that point to the increasing political utility of supervision and control.

Within the broader scholarship on imperial British history, this thesis would question conventional understanding of increased Company action and control as responses to problems in management and government. If the direction of causality between the Company servant's malfeasance and the Company's response was from the former to the latter, then a simple explanation of the Company successfully imposing and enforcing measures to prevent future acts would point to a dramatic reduction of corruption. This explanation understates the utility of malfeasance as a justification for increased political and administrative control. Furthermore, the Company must not be understood as a single commercial entity with administrative responsibilities, but as a complex interaction between private commercial interests and a small but increasing public interests of the British government. The Company thus cannot be assumed to be acting solely in its own interests. Instead, some degree of government intervention within the Company decision-making process must be acknowledged.

By emphasizing the simultaneous causality between employee malfeasance and Company response, this thesis most clearly follows and supports Nicholas Dirks' narrative of scandal as a central facet of empire. In *The Scandal of Empire*, Dirks makes a bold claim that "scandal was the crucible in which both imperialist and capitalist expansion was forged."⁴ This thesis extends that claim to all levels and aspects of British imperialism in India. The argument

⁴ Nicholas Dirks, *The Scandal of Empire: India and the Creation of Imperial Britain* (Cambridge, MA: Belknap Press of Harvard University Press, 2006), 8.

advanced in this thesis is not a totally novel one, but one that nonetheless qualifies existing scholarship and explores corruption and malfeasance beyond the most infamous cases such as the Warren Hastings trial.⁵ Instead of looking at an individual whose name has since been synonymous with colonial corruption as Dirks does, I examine a multitude of cases, investigations, and relevant correspondence that take place at a comparatively lower district or regional setting. Apparent discrepancies between sentencing for English and natives, complex accusations of conspiracy, and a variety of prejudices and assumptions will provide a novel extension of the narrative of corruption and malfeasance. The analysis of acts of corruption and malfeasance by comparatively lesser figures would extend the scope of the Dirks narrative, showing that underlying imperialistic ambitions were present in lower and even trivial levels of colonialism.

Expansion of the East India Company

The analysis of the corruption and malfeasance during the later period of the East India Company must begin with an understanding of the early roots of the EIC's commercial development. British trade and settlement in India began with the royal charter of the first East India Company in 1600, initially named the 'Governor and Company of Merchants of London Trading into the East Indies.' The first century of the company's activity involved the establishment of its commercial foundations – permanent joint-stock ownership to finance regular voyages and trade settlements starting from 1613 – and the early royal support of the Company's

⁵ The Hastings trial served as the backbone of *The Scandal of Empire*, in which Dirks most vocally presents the narrative of scandal and corruption as a driving force behind imperial expansion, rather than merely a result of expansion.

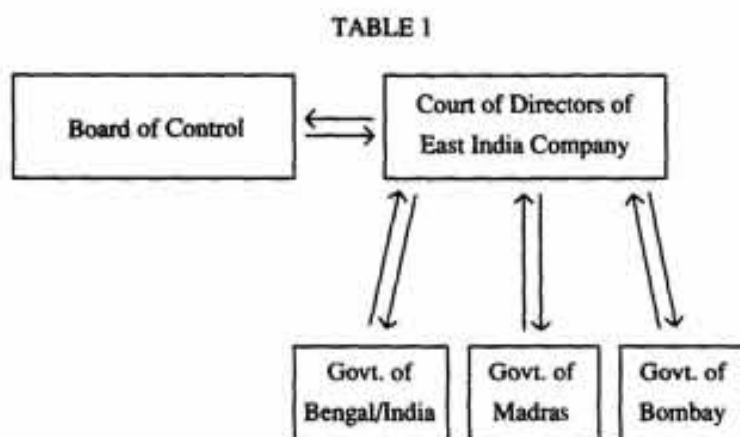
administration of justice, political governance, and police powers.⁶ Relatively minor reorganization took place in 1708, the English government facilitated a merger between the original company and its primary competitor. The newly formed ‘United Company of Merchants of England trading to the East Indies’ was a more consolidated body than the earlier companies, but it maintained similar focus on commercial activity. It continued the work of the first company, establishing commercial presence through permanent settlements at Calcutta and, Bombay, and Madras. Labeled as the three Presidencies, these settlements would remain the centers of British presence during the later British Empire. With its early foothold in India, the first two East India companies may thus be described as predecessors to the British Empire in India in the eighteenth and nineteenth centuries.

Charter Acts in 1711, 1730, and 1744 reaffirmed the Company’s rule throughout the first half of the eighteenth century. During this time, the Company continued to exist as a primarily commercial entity with few territorial possessions.⁷ The first major turning point began in 1757 when British victory in the Battle of Plassey brought new territories under Company control. A subsequent series of victories through 1765 further increased the land controlled by the Company, thereby altering the variable of geopolitical scope. Underneath the façade of a trading company, the East India Company during this time period exerted considerable amount of political and military control. Increased political activity in turn brought administrative issues such as abuse of power and its subsequent financial losses. In 1784, the Pitt India Act attempted to remedy these issues by establishing the Board of Control. With the power to oversee the actions of the Court of Directors, the Board of Control was essentially a proxy through which the

⁶ Charles II’s Charter of 1661 consolidated the joint-stock trading system and officially conferred significant administrative powers in the Company’s settlements. Martin Moir, *A General Guide to the India Office Records* (London: British Library, 1988), 4.

⁷ Martin Moir, *A General Guide*, 15.

Crown exercised control over and supervision of the Company's civil and military government and its now-extensive revenue collection.⁸ A diagram of the Company's fundamental organization provides a basic understanding of the Board of Control's oversight and its role in administration (see Table 1 below).



Source: figure taken from John Stuart Mill, *Collected Works of John Stuart Mill*, ed. John M. Robson, Martin Moir, and Zawahir Moir (Toronto: University of Toronto Press, 2006).

Between 1784 and 1858, the East India Company underwent a transformation from commercial entity to civil and military government. Although the company continued its commercial activity throughout the period, the Charter Act of 1813 ended its monopoly rights in India and increased the Board of Control's influence over financial matters. The Company's commercial powers outside of India diminished in similar manner, with the Charter Act of 1833 ending its trade monopoly in China. Despite its commercial consequences, the Charter Act of 1833 nonetheless reaffirmed the Company's political and administrative power. The transition

⁸ Pitt's India Act established a Board of Control that oversaw all operations related to civil or military government and *revenues* of British territories. See H.V. Bowen, *The Business of Empire: The East India Company and Imperial Britain, 1756-1833* (Cambridge: Cambridge University Press, 2006), 73.

from commercial to governmental entity was evident in the adoption of the Company's silver rupee as the official currency in the 1820s.⁹

Despite the EIC's official status as government in India, the Crown government had its own foothold on the Company through the Board of Control. The late eighteenth and early nineteenth century was thus a period during which the Directors, Board of Control, and local Presidencies struggled for control over government. These shifts in power would have unique implications for the legal and administrative treatment of agents who violated Company trust. Until the Act of 1858 ended Company rule and formally asserted Crown control over the government of India, the East India Company operated in an ambiguous state between commercial entity and conventional political government.

The EIC's simultaneous commercial and political function meant that an act of embezzlement by an official was a violation of both Company policy as well as a corrupt abuse of power. Since the Company's dual commercial and governmental functions were most apparent from 1784 to 1858, the time period would be highly suitable for an investigation of the Company's response to malfeasance and corruption. In many cases, the line between legal and managerial response appeared blurred. Some offenders faced lengthy court trials years after acts of fraud or embezzlement, while others were simply removed from their positions. Consideration of the reasoning behind these decisions would explain this apparent discrepancy, creating a more nuanced understanding of the East India Company's role at a time when its commercial and political authority was greatest. On a more general level, this understanding provides insight on the legal treatment of early forms of financially-oriented crime in a burgeoning corporate environment.

⁹ David Ludden, *India and South Asia: A Short History* (Oxford: Oneworld, 2014), 129.

As an early modern multi-locational company, the EIC had several unique characteristics that further complicated matters of managerial misconduct. Firstly, communication issues prior to the invention of the telegraph meant that the Company directors lacked knowledge of the conditions in India and simply had to trust their servants “to act in the best interests of the Company.”¹⁰ As such, a certain degree of autonomy by Company servants and employees was inevitable. This is evident in the well-documented occurrence of private trade, and in the relative flexibility with which English governors enacted local administrative policy. However, the issue of misconduct and malfeasance by officials was a more complex one. Until Crown control in 1858 brought a more established judicial system, investigations and trials of managerial misconduct by Company servants typically involved a lengthy process of trans-continental communication between Company directors and agents in India. The communication process proved to have significant implications on the administrative and legal response to managerial misconduct.

Methodology and Sources

The primary aim of this thesis is to build upon existing scholarship on administrative and managerial misconduct by analyzing the manner in which Company directors responded to misconduct. The analysis of correspondence between the Court of Directors in England and officials stationed in East India is thus a central element. These documents not only address the approach towards the punishment or consequences of misconduct, but also reveal the attitudes, motives, and rationale of those involved. In the process, clarification will be offered on some of the disagreements and gaps in historiography, and the status of Company agents (from native subjects to colonial officials) will be clearly delineated. The unique circumstances of the East

¹⁰ H.V. Bowen, *The Business of Empire: The East India Company and Imperial Britain, 1756-1833* (Cambridge: Cambridge University Press, 2006), 194.

India Company as an early modern company-state will prove to have significant implications not only for the Company agents of the time period, but also for the broader legal and managerial developments.

Similarly, documentation of court procedures will also provide insight into the arguments made by both the Company directors and the defendants. These documents will also provide an understanding of the ways in which defendants attempted to maintain their innocence, whether this was by claiming ignorance or by shifting blame. Given the high stakes in the form of monetary fines or imprisonment, defendants had a legitimate interest in convincing investigators and prosecutors of their innocence or negligible role in the matter. As such, their defense provides valuable insight into any legal and managerial shortcomings that may have been exploited. On the other hand, the arguments made by government officials (when applicable) and Company directors provide an understanding of how Company interests were asserted in the legal setting.

Geographically, this research project will begin with the Bengal, Bombay, and Madras presidencies, as these were the centers of British influence in early colonial India. Given the administrative importance, correspondence between the Company directors and officials in these areas is particularly abundant. The analysis of cases in the outlying regions of the peripheries proves to be a greater challenge. In remote areas governed by local rulers, communication with the East India Company was limited. These areas are nonetheless of high interest due to the potential differences in the dynamics of governance and commercial activity. In these instances, an approach focusing on the low-level interactions, as applied in the field of subaltern studies, may be more appropriate, albeit difficult to execute. The third primary area of geographic focus will be London, the location of the East India House and the center of EIC structure. While this

would not directly reflect the reality of the colonial situation, it would nonetheless provide insight into the attitudes of those at the top of the administrative structure of the East India Company.

The majority of analyzed correspondence consisted of archived letters and communications from the India Office Records and Private Papers collections. By using the search and browsing functions of the British Library catalog, I was able to examine specific documents within the E/4 series, which included general correspondence and dispatches between the Court of Directors and the Indian presidencies between 1703 and 1858. Within this series, I also examined communications with specific departments, the most important of which were the Revenue, Political, and Military departments. The Revenue and Political departments were important due to their respective positions within the commercial revenue collection and in the political sphere. The Military department is relevant due to the important role of the military officers in Indian government. These departments are also the most obvious manifestations of what Dirks labels as “the imperial narrative.” The second major source of correspondence was the F/4 series of Board Collections from 1796 to 1858. This included Court of Directors’ drafts as compiled and organized by the Board of Control.

The documents from the E/4 and F/4 series are helpful to this project in that they provide a general sense of the communications by the Court of Directors and the Board of Control. As they are unpublished archival sources, they also provide relatively novel insight into the decision-making process of the East India Company. One shortcoming is that these documents do not paint a picture as detailed or as thorough as the specific departmental records in series L. The last major area of primary sources consisted of published materials at the British Library. These included Court proceedings and regulations passed by Parliament and by the East India

Company. The cases considered in these documents are valuable to the aim of this project because they are significant enough to warrant contemporary publication, yet not impactful enough to have been covered extensively in subsequent scholarship. In addition to being available at the British Library, some of the published materials have been digitized and are accessible online.

The primary sources analyzed in this thesis provide a reasonable understanding of the interactions between the Court of Directors, the Board of Control, and some of the departments within the Indian government. In some instances, they reveal the attitudes and rationale behind the decision-making process in the East India Company. This is crucial to the aim of expanding the scope of cases and responses pertaining to corruption and malfeasance that have been analyzed in historical scholarship thus far. Despite its benefits, though, this particular research methodology is not without its potential drawbacks. Due to time and resources constraints, the extent of the research is somewhat limited. The sheer volume of unpublished archival records means that some important documents and issues will inevitably be overlooked. As such, the documents cannot be held to provide conclusive, quantifiable results. Instead, the findings are more qualitative and do require further research for corroboration.

Economic and Historical Scholarship

The situation of this project within East India Company historiography is crucial. Early colonial scholarship, which employ a European model of enlightenment-driven development as the standard for comparison, have since been subject to heavy criticism.¹¹ Starting from the mid-to late-twentieth century, Cooper and other historians have dismissed these historical accounts as

¹¹ According to Cooper, these early versions of colonial history focused on measuring the colonized by the degree to which they met the European standards of development. Frederick Cooper, *Colonialism in Question: Theory, Knowledge, History* (Berkeley: University of California Press), 2005.

being Eurocentric. The negative label of “Eurocentrism” suggests that this approach inappropriately projects European ideals onto the colonized, and are thus inaccurate accounts of historical colonial development.¹² One major approach adopted shortly after was Immanuel Wallerstein’s world-system theory, which held European centers as the *metropole* and colonized areas as the *periphery*.¹³ Historians Ronald Robinson and John Gallagher later elaborated that this model involved constituent parts were mutually dependent and held together by imperialistic and economic forces.

In “The Imperialism of Free Trade”, which has since been regarded as a highly influential article within the Cambridge School of historiography, Gallagher and Robinson argued that colonial development involved formal elements of empire such as military expansion, as well as informal elements such as collaboration with local, native actors.¹⁴ Robinson’s subsequent work on collaboration theory posited that the use of local collaborative forces was crucial to the colonial political economic system. As examples of collaborators who mediated and facilitated interaction between English colonizer and the colonized Native Indians, Robinson lists local merchants as well as ruling elites and landlords. Although the white colonist may have been the “ideal prefabricated collaborator,” the colonizing attempts by the East India Company and under English Crown rule required collaboration by natives as well.¹⁵ The broader idea of collaborative efforts involving British and native forces is present in more recent scholarship. Philip J. Stern

¹² Scholars such as Chakrabarty have instead argued for a reorganization that treats Europe as a component part of the global development, rather than the universal standard. Dipesh Chakrabarty, *Postcolonial Thought and Historical Difference*. (Princeton, N.J.: Princeton University Press, 2000).

¹³ See Immanuel Wallerstein, *The Modern World System I*, University of California Press, 2011.

¹⁴ John Gallagher and Ronald Robinson, "The Imperialism of Free Trade." *The Economic History Review* 6, no. 1 (1953).

¹⁵ Ronald Robinson, "Non European Foundations of European Imperialism," in *Studies in the Theory of Imperialism*, ed. Roger Owen and Robert Sutcliffe (London: Longman, 1972).

notes that colonial institutions were “English in form” but “in practice shaped by local practices, customs, and law.”¹⁶ H.V. Bowen’s observation of an administrative attempt to “‘improve’ Indian Society” also supports an understanding of administrative processes as an unavoidable interaction between colonial and native forces.¹⁷

The Cambridge approach is particularly appropriate for this project. Robinson’s theory on collaboration is highly relevant to the study of misconduct in this thesis: in many instances, acts such as embezzlement or fraud involved both English officials as well as local subordinates. Likewise, subsequent investigations and testimonies against corrupt officials also included both natives and other English company servants. The framework of collaboration in political and economics systems is thus highly useful. It is also through this framework that I seek to understand the legal position of the native subject in cases involving native testimony against the English Company employee.

From a purely economic standpoint, the decision to carry out overt acts of malfeasance may be understood as a cost-utility analysis. In “Crime and Punishment: an Economic Approach,” prominent economist Gary Becker provides a model to understand the economic and social costs of crime. If crime is understood as an economic activity with costs and benefits to the agent who commits the crime, then the optimal levels of public and private policies “to combat illegal behavior” are calculable.¹⁸ This framework is helpful in two ways: in calculating the cost of crime, it considers the overall harm done to society as a result of a criminal act, and,

¹⁶ Philip J. Stern, *The Company-State: Corporate Sovereignty and the Early Modern Foundations of the British Empire in India* (New York: Oxford University Press, 2011), 95.

¹⁷ Bowen, *Business of Empire*, 203.

¹⁸ Gary Becker, "Crime and Punishment: An Economic Approach," *Journal of Political Economy* 76, no. 2 (March/April 1968): 169-217, accessed April 11, 2016, <http://www.jstor.org/stable/1830482>.

in calculating optimal deterrence, it considers the value of the fine or punishment as well as the probability of apprehension and conviction. In the context of the malfeasance in the East India Company, the net social damage of monetary gain is apparent: an EIC servant in a supervisory role could commit extensive fraud or embezzle a significant sum of treasury money. Meanwhile, the cost of prevention was also high due to the sheer size of the company and the geographic limitations on control and enforcement, which substantially lowered the probability of apprehension and conviction.

Within a historical analysis of the East India Company, sole reliance on the Becker model presents problems. Firstly, calculations of the costs of crime in the East India Company are subject to data limitations: figures on monetary losses may have been inaccurate, and, as apparent in the primary documents analyzed in this project, discrepancies and conflicting reports were not uncommon. Secondly, the simultaneous commercial and governmental functions of the EIC during this time period complicate the calculations of public and private measures of prevention, which are crucial to the Becker approach. Economist Goran Skogh argued that Becker's calculation of the optimal judicial system does not consider the costs and actions that private individuals may take.¹⁹ Given the EIC's simultaneous private and public interests, Skogh's concerns are even more pressing. Skogh also criticized the Becker model for not adequately address instances in which "harm inflicted on victims is not significantly greater than the gain to offenders."²⁰ This criticism is central to the third and most important problem of a direct application of the Becker model to the EIC: a consideration of only the monetary costs and

¹⁹ Göran Skogh, "A Note on Gary Becker's "Crime and Punishment: An Economic Approach,"" *The Swedish Journal of Economics* 75, no. 3 (September 1973): 305-11. Accessed April 11, 2016. <http://www.jstor.org/stable/3438878>.

²⁰ Skogh, 310.

benefits overlooks the political benefit of strict response to malfeasance, subsequently leading to an incorrect conclusion that strict responses constituted a high degree of economic inefficiency.²¹

Other aspects of East India Company management and enforcement have received significant attention in economic history. Ann M. Carlos and Stephen Nicholas described misconduct in early modern trading companies as “principal-agent problems” stemming from the geographic limitations: inter-continental trade created information asymmetry between Company directors and agents, and the private interests of the agents created economic problems of moral hazard and adverse selection.²² Within the scope of this thesis, the company agent who used altered means of measurement to commit embezzlement would be a classic case of Carlos’ principal-agent problem.

At the highest level of hierarchy, the EIC did have mechanisms to counter potential issues of corruption or self-interest. Bylaws in 1836 specified that members of the Court of Directors “shall not invest any of the Company’s money in purchasing any part or share in the [Company’s] capital stock,”²³ and similarly that no person with five hundred pounds worth of stock could serve in the Company’s general court.²⁴ Meanwhile, the costs to the EIC directors of obtaining accurate information on the inventories and activities of its agents in India were simply too great to allow for significant enforcement measures. Similar discussions also occurred in Carlos’ other comparative works on the Dutch East India Company and the Hudson Bay

²¹ Although a counterargument could be made that economic value can be placed on the political ramifications of strict response and enforcement, this would be difficult to ascertain due to aforementioned data limitations.

²² Ann Carlos and Stephen Nicholas, “Managing the Manager: An Application of the principal agent model to the Hudson’s Bay Company,” *Oxford Economic Papers* 45 (1993), 245.

²³ *By-laws for the Government of the Corporation of the East-India Company* (London: East India Company, 1836), 17.

²⁴ *By-laws for the Government of the Corporation of the East-India Company*, 51.

company.²⁵ Meanwhile, Julia Adams argued that enforcement and deterrence was contingent upon the extent of “network structure”²⁶ within the company and the relationships entailed by these structures. Strong network structures could theoretically mitigate issues posed by principal-agent problems.

The living conditions of colonial India present a further increase in utility and reduction in the economic cost [to the servant] of malfeasance. As Santhi Hejeebu observed, mortality risk was high, especially in the earlier years of the EIC. The implications on contracts and malfeasance are clear: “myopic servants could not be motivated by the low and relatively flat wage scale the company offered.”²⁷ The benefit of short-term monetary gain to contract-breaking servants was thus high. Although Hejeebu did not state this, shortsightedness due to high mortality simultaneously lowered the perceived cost of malfeasance. As the cases in this analysis will show, an investigation and trial could take multiple years, the ultimate cost of which would be comparatively undervalued by the shortsighted employee. The high utility and low cost (to the agent) of malfeasance directs analysis to the preventive and punitive measures taken by the Company. Carlos and Nicholas discuss the use of bonds and contracts as incentives for employees to act in the interest of the Company rather than their own. Hejeebu elaborates on the ways in which contracts served as enforcements and deterrence against misconduct in the EIC in particular. For Hejeebu, specifically outlined grounds for dismissal kept EIC employee malfeasance “within tolerable bounds.”²⁸

²⁵ Ann Carlos, "Principal-Agent Problems in Early Trading Companies: A Tale of Two Firms," *American Economic Review* 82, no. 2 (1992).

²⁶ Julia Adams, "Principals and Agents, Colonialists and Company Men: The Decay of Colonial Control in the Dutch East Indies," *American Sociological Review* 61, no. 1 (1996).

²⁷ Santhi Hejeebu, "Contract Enforcement in the English East India Company," *The Journal of Economic History* 65, no. 2 (2005), 510.

²⁸ Hejeebu, "Contract Enforcement," 500.

On their own, however, Carlos and Nicholas provided an insufficient understanding of managerial misconduct in the EIC. Firstly, they focused on global trading companies other than the EIC. While the Hudson's Bay Company and the Dutch East India Company may have borne resemblance to the English East India Company in matters of trade and commerce, they did not possess the same administrative responsibilities that the English EIC did. As such, the companies discussed by Carlos and Nichols did not face the same jurisdictional and legal complexities within their response to managerial misconduct. Hejeebu's study comes closer to understanding these problems in the context of the English East India Company, providing analysis of EIC the threat of dismissal and its utility as behavior-influencing incentives. This account is grounded in an extensive dataset of contracts from archival sources. In one section, Hejeebu examined the clauses of 561 surviving contracts between 1740 and 1813.²⁹ In another study, she cites dismissal rates as high as 8.8% in Bengal between 1700 and 1774, noting also that "dismissals occurred most frequently at the highest levels of responsibility."³⁰ It must be noted, however, that the research is focused on dismissals and enforcement pertaining to private trade, rather than expressly illegal forms of malfeasance such as fraud and embezzlement. Although Hejeebu's analysis of the incentives and deterrents within the contracts is relevant, fraud and embezzlement were patently illegal, while some extent of private trade was expected and implicitly permitted. The question thus remains: to what extent did these mechanisms function when it came to criminal acts of malfeasance?

To an extent, these questions are answered in Rachel Kranton and Anand V. Swamy's study of contracts and agency problems within the textile and opium industry in colonial India.

²⁹ Hejeebu, "Contract Enforcement."

³⁰ Pablo Casas-Arce and Santhi Hejeebu, "Job Design and the English East India Company" (Harvard University, 2002), accessed April 11, 2016.

Kramer and Swamy noted that although contracts specified consequences in an attempt to deter opportunistic violation by traders, the Company officials who possessed the right to enforce these contracts nonetheless could “use the same coercive power to extort rent.”³¹ According to Kramer and Swamy, the primary explanation of the Company’s inability to eliminate such behavior was a combination of two factors: poor management and a geographical problem of distance. In particular, the former was evident in the fact that even senior Company officials often colluded with lower-level agents to extort rent. Although this is a plausible explanation, it provides relatively few historical cases as evidence, and ultimately contradicts more recent historical scholarship on the extent of Company controls preventing managerial malfeasance by employees and other agents.

Like more recent economists, prominent East India Company historian K.N. Chaudhuri focused on the commercial element of the company. Within the organizational structure of “business constitutionalism,”³² Chaudhuri presented a decision-making model that bears resemblance to the subsequent economic models offered by Carlos, Hejeebu, and Kranton, among others. The primary source of power for the EIC was not sovereign political power, but corporate structure. Although Chaudhuri did address the exercise of government power by the EIC particularly in the eighteenth century, his area of emphasis is clear in the assertion that the EIC was determined “to be traders first and territorial rulers next.”³³ In similar manner as other economic models, Chaudhuri’s characterization of the Company was as an “administrative *unit* with concrete business problems to solve.”

³¹ Rachel Kranton and Anand V. Swamy, "Contracts, Hold-Up, and Exports: Textiles and Opium in Colonial India," *American Economic Review* 98, no. 3 (2008): 967-89.

³² K.N. Chaudhuri, *The Trading World of Asia and the English East India Company, 1660-1760* (Cambridge: Cambridge University Press, 1978), 22.

³³ Chaudhuri, *The Trading World*, 115.

In *The Company State*, Philip Stern emphasizes the inadequacy of these approaches, which he describes as component parts of K.N. Chaudhuri's business constitutionalism framework. According to Stern, the understanding of the EIC as a purely commercial entity overlooks the Company's political sovereignty and its subsequent "preoccupying concern with government."³⁴ This is a valid criticism, as Hejeebu's analysis rests on an assumption of the firm "as a collection of contracts,"³⁵ which is similar to Chaudhuri's business constitutionalism. While Carlos and Hejeebu's economic model approach may apply to the early years of the EIC, in which it was indeed limited to commercial activity, this was not the case for much of EIC history. It is hardly surprising that this problem directly carries over into a discussion of EIC response to employee malfeasance. Although the economic models do provide a general understanding of what the management structure may have been like, it does not paint the complete picture. As such, this project will look to the historical approaches of scholars such as Bowen, in order to provide a better context for the understanding of managerial malfeasance and misconduct.

On the issue of Company control, the disagreement between recent historical and economic scholarship is apparent in the work of other historians. Like Stern, Bowen emphasized the non-commercial elements of Company control. Bowen's understanding of the East India Company's business organization in *The Business of Empire* documents the transformation of the East India Company from a purely commercial entity to an imperial government. Most notably, Bowen conjured an image of the "vast edifice" of the physical East India House.³⁶ These undertones point not to a purely commercial entity, but to a more Hobbesian form of far-reaching

³⁴ Philip J. Stern, *The Company-state: Corporate Sovereignty and the Early Modern Foundations of the British Empire in India* (New York: Oxford University Press, 2011), 12

³⁵ Hejeebu, *Contract Enforcement*, 496.

³⁶ Bowen, *The Business of Empire*, 184.

government. Bowen's portrayal of East India Company management is optimistic from the viewpoint of the Company. Although acknowledging the mismanagement and corruption of the eighteenth century, Bowen asserted that by the beginning of the nineteenth century, public sentiment was generally positive and there was a "much-admired sense of order and purpose" to the affairs of the EIC.³⁷ More importantly, Bowen noted the observations of a commentator that this change in public opinion was a "revolution of the public sentiment" due to the belief that the EIC now exerted greater control over its overseas employees.³⁸ While this does not speak to the ability of public sentiment to affect EIC management measures, it does maintain that public sentiment was a driving force behind the increasingly role of the EIC in political and civil affairs in India.

Bowen's analysis is also consistent with Robert Travers' analysis of the Company's – and, specifically, the Directors' – extent of control. After considering important aspects of political, legal, and bureaucratic complexity within Company operations, Travers maintained that as early as the 1770s, Company directors as well as the English parliament exercised significant control over Indian settlements. However, Travers also noted that Company servants were thus "not as autonomous as contemporary polemics against corrupt English nabobs suggested."³⁹ This is a crucial point of disagreement between Bowen and Travers. While Bowen suggested that improvements in public sentiment reflected actual increases in the degree of Company management control, Travers' observations – of highly critical public opinion despite improved management measures in the late eighteenth century – point to a clear discrepancy in the matter.

³⁷ Bowen, *The Business of Empire*, 182.

³⁸ Bowen, *The Business of Empire*, 183.

³⁹ Robert Travers, *Ideology and Empire in Eighteenth Century India: The British in Bengal* (New York: Cambridge University Press, 2007), 37.

Extensive political, judicial, and administrative control for the late eighteenth and early nineteenth century is consistent with other recent scholarship. In *The Company-State*, Stern's focus sovereignty of the EIC pointed to the political and judicial aspects of the EIC. In the process, the argument for extensive sovereignty reinforces the idea of significant control over its employees (referred to as servants), especially after Crown intervention in the late eighteenth and early nineteenth century. However, Stern's argument proceeds one step further than does Bowen's, maintaining that this extent of control was present in the EIC even before Crown and parliamentary involvement in governance. As early as 1687, a Company merchant also played the role of "soldier, lawyer, philosopher, [and] Statesman."⁴⁰ The implication is that administrative powers following the East India Company Act of 1773 was nothing new, and that the EIC, despite lack of Parliamentary involvement in the matter, was actually functioning as a sovereign company-state since the seventeenth century.

If the Company subsequently exercised a significant degree of control over private trade, as suggested by Travers, then it is conceivable that this exercise of authority carried over to the sphere of more blatantly illegal misconduct such as embezzlement and fraud. More importantly, Travers' description of contemporary criticism as "polemics" suggests that in the British public sphere, fears of Company employee malfeasance were widespread and potentially unwarranted in its extent. The slightly different accounts of Bowen and Travers raised two crucial questions: firstly, whether the "polemics" against malfeasance were an accurate reflection of colonial realities or a self-propagating exaggeration of the problem, and secondly, whether they actually influenced Company efforts to increase control. Travers' assertion that "powers of governors

⁴⁰ Stern, *The Company-state*, 83.

were also strengthened to meet the *perceived* crisis of authority”⁴¹ suggests that fears in the public sphere did indeed influence Company action in some way.

The most apparent divide in scholarship arises from the perceived extent of the East India Company’s political sovereignty. According to Stern, economists and economic historians focused only on the commercial role of the EIC, overlooking the company’s administrative goals. For Stern, the EIC pervaded civic and political life through vehicles such as the mayor’s court, which shaped the “civic and social life in the town” and helped to define colonial “subjecthood” in British India.⁴² Like Stern, Bowen and Travers placed more emphasis on the political and judicial actions that further complicated the commercial interests of the company. As such, the analysis of Company response to managerial malfeasance in this project will focus on this field of scholarship.

In recent scholarship, Dirks focused closely on the transition from Company to imperial rule. Citing prominent incidents such as the Warren Hastings impeachment from 1788 to 1795, Dirks argues that political scandal not only occurred, but was central to the arguments made to justify imperial expansion.⁴³ This contradicts the direction of causality between imperial expansion and corruption as held by Bowen, Stern, and Travers. The purported role of scandal in the Dirk’s argument is particularly important: if true, it would suggest a higher degree of complexity than does Bowen’s observations on the role of public sentiment. It would also call into question Travers’ implication that perceived fears of corruption and scandal, even when unfounded, greatly influenced the transition from Company to Imperial rule. On a fundamental level, Dirks’ assertions on scandal imply that a totally effective elimination of corruption would

⁴¹ Travers, *Ideology and Empire in Eighteenth Century India*, 36.

⁴² Stern, *The Company-State*, 94.

⁴³ Dirks, *Scandal of Empire*, 8.

actually reduce the need for expanding administrative control, thus conflicting with the Company's broader imperialist ambitions.

In the discussion of the Hastings trial, Dirks made a crucial assertion that the primary purpose of the trial was to reestablish the credibility and honor of the British institutions.⁴⁴ The underlying assumption of this claim is that Edmund Burke and the British government saw corruption as being inherent in the nature and character of the colony, and that this trait was contrary to the more "noble" British institutions. Responses to corruption and malfeasance would thus be a strictly British endeavor, made with the hopes of replacing native and colonial vices with more honorable crown rule. The observed push by Company leaders to reestablish British values and institutions is instrumental to Dirks' overarching argument that British imperialistic ambitions were part of the early Western modernity and its foundations of "global capitalist domination...rewritten as the national epic."⁴⁵ Dirks' analysis is ultimately somewhat Wallersteinian in that it portrays "empires" such as that of the British as part of a global economic system of "core nation" and "periphery." The idea of a broader "imperial narrative" also echoes Wallerstein's view of "core-nation" development as revolutionary. Under this approach, the individual empire or nation-state is unimportant in comparison with the broader "revolution" in economic and political relations. Similarly, my argument holds that the emphasis on the political implications of response to malfeasance could be observed throughout the entire structure of the East India Company, and not just among major figures.

While I aim to extend the scope of Dirks' narrative, my argument will diverge on one important point. Dirks' focus on the Hastings trial naturally led to the observation that spectacle was central to the use of scandal as justification for imperial expansion. Dirks argues that the

⁴⁴ Dirks, *Scandal of Empire*, 28.

⁴⁵ Dirks, *Scandal of Empire*, 29.

public spectacle of the Hastings trial had directly caused a fundamental change in British sentiment and attitudes towards India. While Hastings stood on trial, the “reputation of British justice, all that was good and sacred... was on trial as well.”⁴⁶ Although the observed effects of the Hastings trial are difficult to dispute, an analysis of the cases to follow would suggest that spectacle was sufficient, but not necessary, to invoking imperialistic sentiment. This is primarily supported by the fact that ambitions to extend British influence, control, and empire were indeed apparent in correspondence concerning relatively minor figures, for which there was certainly no spectacle to rival that of the Hastings trial.

In general, legal responses to abuse of power in business operate within the framework of the governing legal and judicial system. Throughout the eighteenth and nineteenth centuries, however, a complex set of legal systems governed both the colonists and the natives. In the Presidencies, where Company governance was most direct, Crown Courts administered English law, with jurisdiction over Britons and anyone else within the Presidency. In the mofussil areas outside the Presidencies, where governance was indirect, the Company Courts administered a more complex plurality of laws over native Indians and non-British Europeans. Elizabeth Kolsky argued that these parallel systems created dual standards that protected Britons from prosecution and punishment. The result was the establishment of colonial India as a place of “white lawlessness at the center of the Indian Empire.”⁴⁷ This notion of a tiered justice system, with different standards for Britons and Indians, is most clearly illustrated by the observation of “one scale of justice for the planter and another for the coolie.”⁴⁸

⁴⁶ Dirks, *Scandal of Empire*, 107.

⁴⁷ Elizabeth Kolsky, *Colonial Justice in British India*. (Cambridge: Cambridge University Press, 2010), 11.

⁴⁸ Although this description applies to a later period of even greater difference between the legal treatment of Britons and Indians, the fundamental inequality is evident in Kolsky’s description of

I argue that the understanding of unequal legal treatment of Britons and Indians would be an oversimplification if applied to instances of corruption and malfeasance, and, specifically, those that strongly affected the Company's business and revenue collections operations. While an English planter may have been sentenced to a mere fine for the torture and mutilation of his Indian servants⁴⁹, the consequences were evidently more severe for the English revenue collector found guilty of embezzlement and fraudulent accounting. I also argue that, based on the language of relevant correspondence and court reports, the perceived triviality of violent white-on-Indian crime was not present in Company responses to crimes that interfered with the operations and interests of the Company. On the other hand, the primary documents are consistent with Radhika Singha's claim that the legal system was characterized by a direct relationship between the state (in this case, the East India Company) and the individual.⁵⁰ This is consistent with the broader expansions of state and political power in Dirks' narrative. Finally, it will be shown that Kolsky's "white lawlessness" simply did not exist in this area. Ironically, it is perhaps due to the paramount importance of Company's business and political interests that the administrative and legal responses to abuses of power within business occasionally treated Britons and Indians as legal equals.

The relationship between geopolitical factors and the extent of EIC's legal and administrative response is also an issue of sovereignty. The different methods of administration and revenue collection raise the question of how and to what extent the EIC maintained its control, and who exactly the actors were during the process. Lauren Benton's

eighteenth and early nineteenth century justice systems. Kolsky, *Colonial Justice in British India*, 165.

⁴⁹ See Kolsky, 1

⁵⁰ Radhika Singh, *A Despotism of Law: Crime and Justice in Early Colonial India* (Delhi: Oxford University Press, 1998).

theories of sovereignty and legal pluralism are central to this issue. In *A Search for Sovereignty*, Lauren Benton's observations that the administration of empire depended on delegated legal authority are comparable to the collaboration noted by Robinson and Gallagher. Benton qualified that the delegation of authority differed in extent across regions, resulting in "fluid legal politics" and distinct "corridors and conclaves" of authority and sovereignty.⁵¹ The empire of the East India Company, with concentrated British power in the urban centers of the presidencies and delegated powers in the peripheries, fits perfectly into this theoretical framework. Benton also argued out that in remote areas, "imperial agents played up their connections to distant sovereigns and enacted legal procedures as they remembered them."⁵² This conception of a fragmented sovereignty contrasts with Bowen's and Travers' positions on the extent of control exerted by the EIC. On the other hand, it would suggest that response to malfeasance was not uniform across all geographic and political regions of India. A thorough comparison of responses to corruption and malfeasance across regions and "corridors" of sovereign power, though, is an endeavor beyond the scope of this thesis. Nonetheless, the idea of "fluid legal politics" will still prove to be integral to the cases considered in this thesis.

Regulatory Trends

Public and political pressure to reduce corruption was a significant factor in the increasingly regulatory environment. At the extreme, extensive investigations prompted by increased regulation could have irremediable losses for the defendant even if he was eventually found innocent. On the other hand, the length of the trial provided the prosecutor with ample opportunity to establish witness testimony. In 1806, the EIC passed a regulation that expanded

⁵¹ Lauren A. Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400—1900* (Cambridge: Cambridge University Press, 2010), 3.

⁵² Lauren A. Benton and Richard J. Ross. *Legal Pluralism and Empires, 1500-1850* (New York: New York University Press, 2013), 29.

the ability for local courts to receive witness testimony. The regulation allowed local courts to “receive complaints in the city and Zillah courts against collectors of the land,” and to exercise further discretion through “special enquiry in certain cases” against officers.⁵³ On its own, this regulation is evidence of increasing willingness by Directors to employ the testimony of natives in the context of prosecution interests. At the same time, an accused official named James Barton claimed that its use in his trial was a retroactive “violation of public justice” and an “insult to the British Constitution.”⁵⁴ This claim raised questions regarding the extent of judicial authority exercised by the EIC. In this particular case, judicial authority appears to exist beyond the limits British legal tradition. Along with the 1806 regulation, the power of the prosecution in building cases suggest a strong stance against misconduct and a willingness to involve native testimony in the prosecution of alleged misconduct. Regardless of whether this regulation was specifically directed at Barton, as he had suggested, its use was on one hand made possible by a lengthy trial and, on another, a clear example of the increasing powers of prosecution. More importantly, the regulation went beyond conventional commercial boundaries and created new powers to expose and sanction malfeasance.

The increasing empowerment of the local courts appeared to be the rule rather than the exception in subsequent years. Despite protests, further regulations in 1810 allowed for the appointment of additional judges at the discretion of the governor general, while regulations in

⁵³ The 1803 regulation also “empower[ed] the Governor General in Council to appoint an Assistant Judge of the Dewanny Adawlut in any zillah to try cases or hear appeals referred to him by the Zillah.” Douglas Dewar, *A Hand-Book to the English Pre-Mutiny Records in the Government Record Rooms of the United Provinces of Agra and Oudh* (Allahbad: Government Press, 1920), 47.

⁵⁴ James Barton, *An Address to the Honorable Court of Directors, of the East India Company, in Answer to the Proceedings of the Supreme Government* (London, 1811).

1818 enhanced the powers of the zillah and other magistrates.⁵⁵ A section of official statutes passed in 1810 specifically addressed the issue of regulation and management, outlining the judicial process for British subjects accused of abuse of power. With regards to the potential problems that could emerge during an investigation (such as those in Barton's case), the statute also mentioned that defendants were to remain in custody until the trial.⁵⁶ Claims of unjust procedure made by servants like Barton evidently did not preclude strict measures against the accused. If an investigation determined a British subject to be guilty, consequences could potentially be harsh. An office-holding British subject guilty of extortion or similar crimes was subject to the total discretion of the court. Furthermore, the statute maintained that dismissal sentences were permanent, and that the Company could not "release or compound" the judgment, or restore any servants dismissed "on account of misbehaviour."⁵⁷ This marks a check by the Crown on the extent of the Company's punitive discretion. In practice, this was not necessarily the case, though, as officials determined not to be totally culpable were sometimes returned to their post. While it was in both the Directors' and the Board of Control's interests to increase British presence, the manner in which this was exercised appeared subject to some variation.

Of the consequences outlined in the statute, the most notable were those faced by officials who disobeyed the orders of the Company directors. The actions of those "willfully disobeying or...omitting to execute the Orders and Instructions of the Court of Directors" were a "Misdemeanor at Law" which could be punished as a criminal act.⁵⁸ The rationale for this lay in

⁵⁵ Douglas Dewar, *A Hand-Book to the English Pre-Mutiny Records*, 47.

⁵⁶ George Eyre and Andrew Strahan, *A Collection of Statutes Relating to the East India Company* (London: Eyre and Strahan, 1810).

⁵⁷ Eyre and Strahan, *A Collection of Statutes Relating to the East India Company*, 230.

⁵⁸ Eyre and Strahan, *A Collection of Statutes Relating to the East India Company*, 230.

the simultaneous commercial and governmental role of the EIC during the time period. This is evident in the emphasis that disobeying these orders was a “breach of trust and *duty* of [an] Office.”⁵⁹ Fraud and embezzlement by these officials were thus not only a violation of company policy, but necessarily a criminal act of corruption as well. More importantly, though, it was seen as a violation of the British ideal of honor and duty. These attitudes are highly consistent with the anti-corruption sentiment of the British public, which has since been noted by scholars such as Bowen and Travers.⁶⁰ The emphasis on values and ideals, though, most strongly supports Dirks’ idea of a broader imperialistic narrative that transcended concrete policies passed merely to counteract malfeasant behavior.

Preventive measures outlined in the statutes appeared weak in contrast. In 1810, the primary method of “remedying the abuses which have prevailed in the collection and receipt of revenues” was simply to require officials to swear an oath to “well and faithfully execute and discharge the Duties of an Officer of Revenue.”⁶¹ The oath was comprehensive, prohibiting specific acts such as bribery and extortion. While the swearing of an oath is hardly surprising for government officials, it is the sole *ex ante* reliance on an oath that is telling of the state of preventive measures, or the lack thereof. In essence, the only means to prevent corruption and malfeasance before the fact was the obligation of the contract. Firstly, this points to a relative ease with which acts of fraud and embezzlement could be carried out. If the only true preventative measure was the deterrent effect of potential sanctions, and if these sanctions were limited by lengthy investigations and unavailability of information, then there would have been few obstacles to potentially rewarding acts of malfeasance.

⁵⁹ Eyre and Strahan, *A Collection of Statutes Relating to the East India Company*, 230.

⁶⁰ See H.V. Bowen, *The Worlds of the East India Company* (Rochester, NY: Boydell Press, 2015); Travers, *Ideology and Empire in Eighteenth Century India*.

⁶¹ Eyre and Strahan, *A Collection of Statutes Relating to the East India Company*, 231.

Secondly, the oath was an affirmation of British values and ideals. The implication was that an assertion of British values in the colony would theoretically be sufficient to counteract the temptations of malfeasance. The multitude of cases that will follow this discussion of regulations points clearly to the fact that such oaths had little practical effect in many cases. While it may have created a moral obligation for some, it clearly did not for others. Ironically, malfeasance due to the lack of tangible barriers would later be cited as need for increased EIC oversight.

Although the historiographic situation is primarily historical, that is not to say that economic models from the likes of Hejeebu, Carlos, and Kranton ought to be rejected. In Bowen's *The Worlds of the East India Company*, Lahiri's historical analysis of the maritime world suggest a particularly high degree of fraud and corruption. Although Lahiri did not explicitly use this term, the discussion of liability and "issues of control" bears resemblance to Carlos and Nicholas' concept of information asymmetry."⁶² In many of the cases examined in this thesis, issues voiced by both Directors and Company servants point to a significant presence of the problems modeled by economic historians. The line between theoretical model and historical analysis remains the ultimate limit on an interdisciplinary approach, but a consideration of the economic effects is nonetheless helpful.

Prosecution Efforts and Defense Strategies

A simple economic analysis of criminal punishment treats the prevention as the extent to which the state can reduce demand by imposing sanctions.⁶³ These sanctions are a function of the weight of the sentence and the probability of being caught and punished. Given the aforementioned lack of *ex ante* preventive measures, a focus on the preventive element of

⁶² H.V. Bowen, *Worlds of the East India Company*, 180.

⁶³ Based on Becker's economic model. See Becker, "Crime and Punishment: An Economic Approach."

prosecution and sentencing is necessary. By the start of the nineteenth century, Company action against employee misconduct did indeed occur to a significant extent. Both Company correspondence and court proceedings point to a significant degree of Company control and legal consequence, consistent with Travers' observation that Company employees did not possess the degree of autonomy that was suggested at the time. The informational and procedural problems exploited by the defendants not only point to the difficulty of prosecution, but also support the idea that some extent of corruption and malfeasance was unavoidable. Meanwhile, the variety and complexity of the following cases serve as the basis for the argument that Company response to malfeasance was more than just an effort to remedy past losses and prevent future ones. Instead, the language suggests that the Directors and Board of Control placed greater value on broader ideals of virtue and justice.

In an 1805 case, Benares Collector James Barton attempted to defend himself against charges of extortion and corruption. As soon as charges were brought forth, the governor general immediately removed Barton from his post and initiated an investigation. The case relied upon testimony by an informer referred to as F. Hawkins, whose claims in turn rested primarily on the testimony of a native claiming to have bribed Barton for a government position.⁶⁴ In response, Barton protested both the charges and the suspension as being "contrary to all law," on the grounds that they were carried out as soon as charges were brought forth, and without any actual formal investigation.⁶⁵ Furthermore, the charge of bribery appeared inconsistent with inconsistent with a judicial department memorandum two years earlier, which stated that the native had testified to "extortion practised on him by Mr. Barton."⁶⁶ In this case, testimony alone

⁶⁴ Barton, *An Address to the Honorable Court of Directors*, 2.

⁶⁵ Barton, *An Address to the Honorable Court of Directors*, 3.

⁶⁶ Memorandum relating to charges against Mr. Barton, Home Miscellaneous Series 420, p397

appeared sufficient to warrant the removal of a collector from his post. While such a response may be characterized as a purely administrative action at the discretion of the Directors, similar suspicions were evident in the subsequent legal actions against the accused collectors.

Barton's protests appeared to successfully prompt further investigation into the circumstances surrounding the accusations. In their resolution, the Court of Directors conceded that the evidence produced by the witnesses "stops short of the collector" and "fix[es] direct criminality on his confidential officers only."⁶⁷ The Court also made a crucial note that in this case, these officers were the only people who "could bring [Barton's] guilt to conviction," and that since their testimony exonerated him, the charges against him ultimately could not be upheld. The Court's subsequent criticism, though, paints a completely different picture. Citing evidence of personal transactions between Barton and various native agents, the Court maintained that Barton's actions at worst constituted a "criminal participation in the malversation of his officers," and at the very least a "most culpable neglect of his official obligations."⁶⁸ The Court subsequently upheld his dismissal from the position and essentially barred him from any further employment in an official capacity. This shows a clear distinction between the legal response – of dropping the charges – and the administrative rebuke. Although the Court was convinced of Barton's guilt and responsibility, it displayed an adherence to legal procedure despite its convictions.

On its surface, the Barton case appears consistent with the standard administrative treatment of managerial misconduct. Instructions from the Court of Directors to the governor-generals and representatives stationed at Fort William in 1774 outlined the required response to

⁶⁷ James Barton, *An appendix to the address to the Honourable Court of Directors of the East India Company, &c. &c. in the case of James Barton, Esq. late Collector of Benares* (London: R. Dutton, 1811), 2.

⁶⁸ Barton, *An appendix to the address to the Honourable Court of Directors*, 59.

different administrative circumstances. Section XIX specified suspension of any member of the Board found guilty of “misapplication of the Company’s money” or of “any notorious breach of duty.”⁶⁹ However, they differed in one regard: unlike the initial claims made against Barton, Section XIX placed particular emphasis on the immediate notification made to any servant removed, and on the fact that the servant in question be “given reasonable time to make his defence.”⁷⁰ Given Barton’s emphasis on his inability to defend himself against accusations, there appears to be at least some discrepancy between written instructions and actual procedure.

Within the subsections of the 1774 instructions, there is one notable distinction. With regards to “misapplication of money,” Section XIX stipulates suspension for any “Member of the Board [of Trade]” that is ultimately at the discretion of the Court of Directors⁷¹. Section XX however, outlines for general Company servants the aforementioned opportunity for defense, as well as specific replacement measures in the event of removal. Higher ranked Board of Trade members thus appeared to be held to a higher standard of behavior, and thus subject to more discretionary consequences in the event of misconduct.

Besides issues of testimony and jurisdiction, legal procedures were subject to communication problems arising from the transcontinental nature of EIC business. These issues are evident in the EIC’s very means of communication and correspondence. Since the start of its operations in India, dispatches between London and the various presidencies were comprised of multiple copies so that at least some copies would arrive if others were lost in transit. Letters were dispatched on several different modes of transportation, with letters on ships being

⁶⁹ East India Company, *Instructions from the Court of Directors of the United Company of Merchants of England, trading to the East-Indies; to Warren Hastings, Esquire, Governor-General* (London: East India Company, 1744), 8.

⁷⁰ East India Company, *Instructions from the Court of Directors*, 8.

⁷¹ East India Company, *Instructions from the Court of Directors* 8.

followed by copies sent over land routes. Even if risk of loss could be minimized in this manner, though, communications prior to the invention of the telegraph were subject to the time taken for EIC vessels to transit between London and India. Communications were also subject to bureaucratic procedures: starting from 1794, drafts of dispatches from London underwent multiple examinations and revisions by the Board of Control, the Court of Directors, and the Committee of Correspondence. By the turn of the century, regular correspondence was typically backlogged by two years.⁷²

Communications issues provided had unique implications for both prosecutors and defendants accused of misconduct. In Barton's case, the Court of Directors' lengthy investigation of his actions and the subsequent legal proceedings ultimately took place over the course of five years.⁷³ Given that the Court operated with a noted presumption of guilt, a lengthy investigation at least partially caused by slow communication had significantly negative consequences Barton. Even though the Court of Directors ultimately dismissed the criminal charges, Barton was subject to the social and moral effects of a presumption of guilt for the duration of the trial. The upholding of his suspension also meant that he suffered permanent administrative consequences. While Barton's complaints regarding the social consequences of his suspension may be the result of exaggeration and personal bias, his ultimate lack of employment and salary are undeniable.

Even if Barton had succeeded in convincing the Court of his total innocence, the picture would have appeared bleak. In his closing statements, he proclaims that any suspension would cause a collector's "whole reputation [to be] irretrievably lost" even if he were subsequently reappointed to his post. These were consequences that would "remain upon record and hang on

⁷² Patrick Tuck, *The East India Company, 1600-1858* (London: Routledge, 1998), 21.

⁷³ The final decision of the Court of Directors took place in 1810, five years after the initial allegations against Barton.

him through life.”⁷⁴ These consequences also underscored the extent of the EIC’s administrative power (as a business entity), which ultimately set its misconduct cases apart from those of conventional businesses. In the latter, a suspension or dismissal would not have precluded future employment elsewhere, provided there were no criminal charges involved. Meanwhile, the EIC’s monopolized control of business in India meant that the record of suspension would follow Barton through any future job as a revenue collector, as he so strongly lamented.

The monetary consequences of dismissal were significant. Given the physically distant nature of a post in India, a dismissed official would have faced high costs of relocation or finding new work. Even absent a lengthy investigation such as that of Barton, dismissal was nonetheless costly. This was evident in the protest of George Scott, which he made upon his return to London. Scott claimed he had suffered “many invaluable losses undergone by this treatment [of dismissal]” and asked for monetary compensation as a result. Although he did not make claims of social harm and mental anguish as Barton had, the sufficiency of monetary loss in prompting his appeal reflects the extent of its perceived harm.

Problems of communication and lack of information were as costly to the Company as it was to individuals like Barton and Hargraves. As evident in Barton’s trial, extensive investigations were carried out, and witnesses were consulted multiple times. Any gaps during the process of replacing Barton with a newly appointed collector would also have been costly. Given that all such factors inevitably translated to further monetary loss, it can be argued that extensive prosecution of fraud and embezzlement simply might not have been economically efficient, at least in cases where the loss due to fraud or embezzlement was comparatively low. Extreme cases of costly prosecution with little monetary remedy would point to the

⁷⁴ Barton, *An Address to the Honorable Court of Directors*, 49.

comparatively greater value placed on the political, rather than the monetary implications of response to malfeasance.

Trends in administrative and legal response continued into the 1820s. During this period, an account of what was described as “the most extensive and difficult investigation of Revenue abuses that was ever attempted under [the Madras] presidency” provides particularly valuable insight.⁷⁵ According to the Court of Directors, an investigation of Madras Collector E.R. Hargraves revealed that he had used his control of the Treasury to make “fictitious transfers” to hide his own withdrawals of Treasury money for personal use. This quintessential accounting fraud was accompanied by at least 744 cases of bribe-taking and extortion.⁷⁶ The severity and extent of this misconduct in this case illustrates the extensive powers exercised by high-ranking Collectors. On the other hand, it is also testament to the thoroughness with which the Company investigated abuse of power.

Perhaps equally important was the durational extent of the crimes in this case. Despite the alleged severity of the crimes, the Court of Directors noted that the abuses under the collectorship of an official named Hargraves had continued for a period of seventeen years “without exciting the attention of the Board of Revenue or the Courts of Justice.” As described by the Court of Directors, the notion of severe revenue abuses being overlooked by both administrative and judicial authorities was a very real possibility. Evidently, the problem was one of a discrepancy between the relative ease of carrying out the misconduct in question and the difficulty of oversight.

Similar difficulties of adequate evidence and proof are also apparent in a later inquiry into the finances of a collector. By 1829, Rous Peter’s alleged misconduct had occurred for years

⁷⁵ Letter to Fort St. George Revenue Department, 15 December 1824, IOR/E/4/930, 842.

⁷⁶ Letter to Fort St. George Revenue Department, 15 December 1824, IOR/E/4/930, 848.

without EIC proof. It was only through a confession written by Peter prior to his death that the EIC confirmed Peters' misconduct. This case stands out as an opportunity to study how Collectors may have succeeded in carrying out acts of embezzlement and accounting fraud without Company knowledge or investigation. Unlike cases involving accusations that uncovered misconduct, this case involved manipulation of accounts that went unnoticed, and that "could only have been made known by comparing the regular books and the contents of the treasury together."⁷⁷ Proof of embezzlement and fraud to conceal the embezzlement was further suppressed by delayed remittance, which was apparently a habitual practice.⁷⁸ Similar cases thus comprised of novel forms of manipulation of treasury funds and a high degree of difficulty in uncovering the misconduct.

In addition to the duration with which Peter avoided apprehension, the case is also notable in the consequences of his death, which became a barrier to the recovery of the monetary losses. According to the correspondence, accounts and balances revealed some of Peter's transactions to be as high as 15,700 rupees. The sums recovered from various individuals involved, however, only amounted to 10,700 rupees. The Court of Directors nonetheless demanded further investigations into the matter, despite Peter's death and the unlikelihood of effectively recovering the losses. This decision challenges Bowen's claims that the directors were powerless to pursue matters "to the bitter end."⁷⁹ The insistence on further investigation also suggests that the political implications of resolving the case outweighed the potentially costly effort to do so.

⁷⁷ Letter from Company Directors to Governor Council at Fort St. George, August 19, 1829, IOR/E/4/937, p721-24.

⁷⁸ Letter from Company Directors to Governor Council at Fort St. George, August 19, 1829, IOR/E/4/937, p721-24.

⁷⁹ Bowen, *Business of Empire*, 211.

Peter's successful avoidance of investigation points to a notable difference in response to misconduct. In the report on the discovery of Rous's confession to embezzlement, Company directors noted previous instances of the Board's dissatisfaction with Rous on grounds of neglect of orders, which was ultimately "not taken notice of in the [appropriate] manner" by the Government and the Board of Revenue.⁸⁰ This aspect of the Rous case marks a significant difference from the investigation and suspension of Barton, which occurred as soon as accusations were brought made. The difference between the two cases, of course, is that in the Barton case, the suspicions originated from Hawkins, an official stationed in India, while in the Rous case, they originated from the Board of Directors in London. That charges originating in India were taken more seriously is consistent with the fact that the directors in the Rous case subsequently voiced concerns of similar abuses in Madura that "could not be cleared up except by a member of the Board of Revenue."⁸¹ Despite this claim, the Company did not turn to the Board of Revenue as a solution to enforcement problems. In 1829, the Board of Revenue in the western provinces was replaced by appointed Commissioners of Revenue. This was conducted in order to correct the "defective" system of revenue collection and judicial administration under the Board of Revenue.⁸² The turn to greater administrative control through Crown-appointed commissioners, rather than a more commerce-based Board of Revenue, was consistent with broader changes in the EIC and colonial India.

Liability in different Departments

⁸⁰ Letter from Company Directors to Governor Council at Fort St. George, August 19, 1829, IOR/E/4/937, p721-24.

⁸¹ Letter from Company Directors to Governor Council at Fort St. George, August 19, 1829, IOR/E/4/937, p721-24.

⁸² Douglas Dewar, *A Hand-Book to the English Pre-Mutiny Records*, 47.

When the East India Company under Warren Hastings took control of revenue collection in 1772, the power to collect land revenue taxes was placed directly into the hands of EIC officials at the district level. Since this was the primary function of EIC governance at the time, the revenue collectors thus exercised considerable power. The Court of Directors' attitude towards corrupt collectors was thus understandably inflexible, and their treatment of the Barton case was not an isolated incident. If there was evidence suggesting direct involvement, as was the case for Barton, criminal charges were made.⁸³ Even when the involvement was indirect and formal charges could not be brought against them, the revenue collectors were nonetheless held liable in an administrative sense. In a set of correspondence with the Bengal Presidency Revenue Board in 1835, the Court of Directors addressed the Revenue Board's responses to instances of fraud and embezzlement in Tipperah, Calcutta, Purneah, and Patna districts. In the Tipperah case, the actual act of fraud was found to have been "committed entirely" by a native officer. However, the neglect of the Collector G.J. to "observe the ordinary precautions against fraud" was sufficient grounds for him to be held responsible for the monetary loss.⁸⁴

A year later, the Court of Directors emphasized the fact that Taylor had violated "the plainest dictates of propriety and justice." For the Court, Taylor's violation of his obligation and duty was not just grounds for immediate and permanent suspension, but cause for "the most formal and strict investigation to be made." As was the case in the Calcutta, Purneah, and Patna embezzlement cases in 1835, the Court exhibited a stricter reaction to Collector misconduct than did the Revenue Board. After the Revenue Board temporarily suspended Taylor, the Court proclaimed that it was "surprised [the Revenue Board] should have permitted [Taylor] to return

⁸³ Although in Barton's case, they were later dropped.

⁸⁴ Letter to Separate Revenue Department, November 18, 1835, IOR/E/4/746, p341.

to Europe on the usual leave of absence.”⁸⁵ Evidently, anything less than a dishonorable dismissal was not sufficient.

In the 1835 Calcutta case, collector Charles Trower was deemed ultimately responsible despite not having a direct role in the act. According to the Court of Directors, the “whole of the balance for which he was held responsible” was to be “realized by retrenchment from the gentleman’s allowances.”⁸⁶ Although no criminal charges were made, Trower faced significant monetary penalty. This was not, however, an excessively strict response: subsequent investigation in a separate case “exempted Mr Trower from personal responsibility as it appeared that he had taken reasonable precautions to guard against [embezzlement].” A direct comparison of the Tipperah and Calcutta case suggests that while Collectors were held responsible for fraud or embezzlement occurring under their management, the extent to which they attempted to prevent it mattered to the Court of Directors. While some leniency was given to Trower, Taylor’s actions incited “much dissatisfaction” and his attempted justification was determined to be completely “insufficient.”⁸⁷

At times, the Court of Directors permitted an even greater degree of leniency. In the Purneah case, fraudulent property valuation resulted in a significant monetary loss. As this case of fraud had occurred during a period of transition between two different revenue collectors, the determination of liability was further complicated. Although the first Collector (referred to as Mr. Sorvis) was determined responsible, the Court acknowledged that his liability was due to a neglect to ascertain the value of the property lodged as security during a transaction.⁸⁸ The Court also noted that it was an isolated incident, and the amount of the loss was ultimately not deducted

⁸⁵ Letter to the Bengal Revenue Department, July 27, 1836, IOR/E/4/748, 278.

⁸⁶ Letter to Separate Revenue Department, November 18, 1835, IOR/E/4/746, 335.

⁸⁷ Letter to Separate Revenue Department, November 18, 1835, IOR/E/4/746, 341.

⁸⁸ Letter to Separate Revenue Department, November 18, 1835, IOR/E/4/746, 337.

from the allowances of either Collector. However, the reasons for this differed between the Court of Directors and the EIC government in the presidency. According to the latter, Sorvis's minimal role and the "difficulty to adjust the liability between the late and the present Collector Mr. Hawkins" prompted them to write off the missing money as regular profit and loss.⁸⁹ The emphasis on the inefficiency of an attempt to "adjust the liability" suggests that justice may sometimes have been subordinate to administrative efficiency, at least for the presidency government. If EIC response to fraud and embezzlement was only driven by concerns about the monetary loss, then the Sorvis and Trowers cases would constitute instances where the company turned a blind eye to relatively minor instances of malfeasance.

The Court of Directors saw things differently. In their response, the Court rejected the transitional difficulty of adjusting liability as insufficient grounds for leniency, instead maintaining that it was only Hawkins' attempt to "do everything in his power to recover the value of the missing papers" that no further action was to be taken.⁹⁰ In contrast with Revenue Board, the Court of Directors consistently maintained greater emphasis on the justice and moral government. The standard for the Collectors was thus a high one, as was apparent in the 1836 response to Collector G.J. Taylor's dismissal. Yet this standard was not stringent to an unreasonable extent. In many instances, genuine efforts by Collectors to prevent or remedy embezzlement and fraud were duly noted. To conclude its opinions on the series of cases, the Court of Directors reiterated that the liability of the Collector should be limited to "cases in which the loss had risen from causes not beyond his control."⁹¹ This contrasts with the protests made by Barton during his defense, during which he argued that the Court not only assumed his

⁸⁹ Letter to Separate Revenue Department, November 18, 1835, IOR/E/4/746, 338.

⁹⁰ Letter to Separate Revenue Department, November 18, 1835, IOR/E/4/746, 340.

⁹¹ Letter to Separate Revenue Department, November 18, 1835, IOR/E/4/746, 345.

guilt without prior evidence and failed to conduct a thorough investigation, but was fundamentally apprehensive of any Collector with accusations made against him. Given the clear instructions of the Court in this 1835 set of cases, it appears likely that Barton's protests were exceptional and biased.

The Collectorships were not the only source of misconduct. Abuse of power was present in other branches of Company administration. In the financial (mint) department, individuals with access to the treasury were capable of fraudulent activity in a number of ways. In 1824, the committee in charge of the Madras Mint department reported "considerable inaccuracy" in the scales and weights used in the Mint, which facilitated fraudulent weightings of Gold reserves.⁹² In this case, individual culpability was difficult to prove: the primary mechanism of the fraud existed within the instrument of gold weighting, rather than in an overt act of misrepresentation. The Mint Committee emphasized this difficulty, claiming that potential acts of fraudulent gold weighting were "beyond our power to affirm."⁹³

The Court responded in several ways. Firstly, the Court responded by ordering new, pre-examined scales, weights, and assay balances to be delivered to Madras "on one of the first ships of the season."⁹⁴ This was an expected response to the previously voiced concern of inaccurate weights and scales. The implementation of new equipment was, however, subject to the logistical limitations of a business that required tools to be examined in and sent transcontinentally from its British headquarters. Nonetheless, the use of new safeguards against Mint and treasury manipulation was a very physical manifestation of the broader aims of expanding British political control and authority. Currency was the foundation of trade and commerce, and

⁹² Letter to the Governor in Council at Fort St. George, November 17, 1824, IOR/E/4/930, p751.

⁹³ Letter to the Governor in Council at Fort St. George, November 17, 1824, IOR/E/4/930, p749.

⁹⁴ Letter to the Governor in Council at Fort St. George, November 17, 1824, IOR/E/4/930, p746.

increased security in the production of currency could be interpreted as an indicator of a reliable government.

Secondly, it reiterated the duty of the Committee to not only investigate the potential acts of fraud in the Mint, but to provide “directions to prosecute” in the event of discovery.⁹⁵ For the Court, the cost of investigation and prosecution clearly did not outweigh the importance of bringing corrupt Mint department servants to justice. The preventative and remedial efforts were further present in the Mint department regulations, which were passed in 1811 and which the Court emphasized in this case. According to the Court, the regulations directed the Mint Master to establish checks of the scale and weight accuracy to prevent fraud. In the process, the Mint Master was given significant discretion, exercising the power to investigate and examine the equipment “as he might deem expedient.”⁹⁶ In the 1824 correspondence, the Mint Master was thus rebuked for not “effectually [fulfilling] the directions of the government for guarding against fraud.”⁹⁷ As was the case in other departments, managers in the Mint department were held to a high standard. Merely not being directly involved was insufficient; managers had to actively investigate and prevent fraudulent activity.

What the 1824 correspondence did not discuss was the potential for the mint master’s own potential for malfeasance. In 1833, the mint master of Benares was found to be guilty of embezzlement. The act of embezzlement was relatively straightforward: mint master Feld had fraudulently withdrawn money from the treasury. However, the correspondence also focused on another Mint employee James Princep, whose actions facilitated the discovery of Feld’s embezzlement. In 1833, the Court had determined that Princep was to some extent liable for

⁹⁵ Letter to the Governor in Council at Fort St. George, November 17, 1824, IOR/E/4/930 p751.

⁹⁶ Letter to the Governor in Council at Fort St. George, November 17, 1824, IOR/E/4/930, p753.

⁹⁷ Letter to the Governor in Council at Fort St. George, November 17, 1824, IOR/E/4/930, p754.

initially attempting to explain the suspicious circumstances surrounding Felds, instead of immediately reporting it to the Mint Committee authorities.⁹⁸ However, further inquiry into the matter reversed the outcome. In an 1835 letter, the Court acknowledged that Princep had initially reported the incident privately to the officiating Secretary to Government, in the government interest of preventing a “storm [being] raised.”⁹⁹ The Court subsequently gave Princep “credit for the real, though not ostensible part which he represents himself as having taken...that led to the discovery of Mr. Feld’s malversation.”¹⁰⁰

Forgery was a fraud mechanism similar in effect to the manipulation gold reserve weighting, but simpler in execution. In 1842, a Post Office writer by the name of De Monte was charged with embezzlement. The subsequent investigation revealed that he had attempted to cover up embezzled public money with forged receipts in the official records. As with the cases in the other departments, this was a matter of opportunistic abuse of power by a public official. Compared with the more sophisticated alteration of gold reserve weighting scales, a forged receipt would also have been easier to carry out. The drawback, though, was presumably stronger evidence of culpability: the Fort William government was firm in a “conviction of the crimes” and subsequently sentenced De Monte to seven years in a provincial jail.¹⁰¹ In addition, the lost money was recovered and appropriated through the “disposal of the sum realized by the sale of his property.” The cost paid by De Monte was not just a prison sentence, but a significant monetary penalty as well.

⁹⁸ Letter to Bengal Financial Department, May 13, 1835, IOR/E4/743, p1029.

⁹⁹ Letter to Bengal Financial Department, May 13, 1835, IOR/E4/743, p1035.

¹⁰⁰ Letter to Bengal Financial Department, May 13, 1835, IOR/E4/743, p1035.

¹⁰¹ Extract of Fort William Political Consultation dated September 27, 1841, IOR/F/4/1974/86798.

The Company's response to forgery and embezzlement in the Post and Mint departments fits into the frame of the overall motives for pursuing malfeasance. Although these instances of malfeasance took place within company operations that typically did not create public scandal or heavy losses to the scale of the accusations against Warren Hastings, they nonetheless justified measures taken to impose greater control in India. The immediate replacement of the weighting systems to prevent future fraudulent reporting was a new method of direct enforcement, as well as a symbol of greater regulation and intervention in colonial matters. More significantly, this was a case where the accused was sentenced to prison time despite the losses caused by his embezzlement having already been recovered and appropriated through the seizure and sale of his property. The implication was that the additional consequence of prison sentence reflected its political value – not just as a deterrent against future embezzlement, but also as an affirmation of British rule of law.

The Military department experienced similar problems. A letter in 1840 discussed embezzlements from the paymaster's office and the paymaster's subsequent dismissal. Procedurally, this was not unlike the response to embezzlements discussed in the Revenue Board correspondence in 1835. Even if not found directly responsible, British officers in the military were nonetheless held accountable. In this particular case, the Benares region paymaster Captain Clayton was determined to have displayed "culpable neglect of duty," having given his native clerks "an uncontrollable power over the public treasure and the public accounts." According to the Court, paymasters were required to "examine constantly into the state of that cash and to keep a certain set of books." The military nature of this case evidently did not preclude similar violations of duty committed by the revenue collectors. Clayton's officer status, however, prompted a harsher response. Making note of his military position, the Court revoked his

commission, removed him from military service, and required him to repay the losses in the amount of 13,486 rupees.¹⁰² It is important to note, though, that the full balance was not repaid until nine years later.¹⁰³ As was the case with the collector Rous Peter, this was an instance where efficient recovery of losses was not possible.

In 1838, the Court of Directors directed an investigation into the actions of Major H.P. Carleton in the Hyderabad Residency. In this case, the issue was whether Carleton was “cognizant of the fraudulent proceedings of the Moonshee who prepared the accounts” within the revenue collection process.¹⁰⁴ Here, the Court’s instructions were clear: if Carleton had indeed been deceived, he would still be liable to culpable negligence and failing to authenticate the signatures and accounts. Although Carleton did not face the same rebuke and dishonorable removal from military service as did Clayton, a similarly strict standard of behavior was evident in the liability of culpable negligence. It is also important to note that both Clayton and Carleton were military personnel with some role in oversight of other administrative activities, rather than Company servants with the sole responsibility of administration and revenue collection. The degree of liability despite this fact is indicative of the standard for military officers.

The strict standard of culpable negligence for Carleton and Clayton contrasts somewhat with the leniency that occasionally appeared for non-military revenue collectors. In the 1835 Calcutta case, Trower’s “reasonable precautions” to prevent embezzlement were sufficient to exempt him from liability. Compared with the assertions that Carleton ought to have carried out rigorous authentication procedures, and with the “constant examination” demanded of Clayton, the “reasonable precautions” appear to be a more vague and significantly lower standard. Given

¹⁰² Letter to Bengal Military Department, July 15, 1840, IOR/E/4/763, p453.

¹⁰³ Bengal military dispatch, 1849-1850, IOR/E/4/803, p1176.

¹⁰⁴ Letter to Bengal Political Department, August 21, 1839, IOR/E/4/760, p311.

that all three cases occurred within the span of several years, and that the mechanisms and extent of malfeasance is relatively similar, the observed difference in standard for military officers is plausible. More importantly, the higher standard for military officers is consistent with broader arguments on the imperialistic ambitions of the East India Company. Although the military branch was controlled by the EIC, the military as a whole nonetheless embodied of expansion, power, and colonial state-building. In the context of imperialistic ambitions, the military can thus be seen as the most obvious symbol of empire, and thus the branch where the response to malfeasance was strongest, and where the subsequent propagation of British values was greatest.

The Native Question

As with the political governance of empire, the business operations of the EIC involved collaboration with and integration of natives. Despite their administrative subordination to English officials, they nonetheless played a role in the everyday operations of the EIC. Throughout the history of the East India Company, they filled roles from basic clerical work to administrative duties as officers of various departments including treasury and revenue collection. These were unique positions of responsibility, as they were expected to carry out their duties as English officers were, yet as natives were subject to the systemic and well-documented treatment as an inferior class. In the context of corruption and administrative malfeasance, two primary positions of the native must be considered: that of the native as a witness testifying in court, and that of a witness accused or implicated in criminal abuse of power. For the former, the question is whether his testimony, particularly against a white English official, was accepted. For the latter, it is whether he faced similar investigation and sentencing consequences as did his English counterpart.

Gallagher and Robinson's emphasis on a political economic system built on both formal and informal native collaboration is well founded. In a proposal for a new revenue plan in 1789, Bahar Collector Thomas Law outlined a new revenue collection system that would increasingly rely upon formal collaboration. Native Collectors employed by the Company would replace independent farmers and directly collect revenue taxes on behalf of the Company. According to Law, creditable native Collectors provided added benefit of facilitating judicial investigations on account of being public sworn servants. The discretionary power given to these natives was substantial: minor disputes "may be referred to their arbitration in preference to dragging a witness at inconvenient seasons."¹⁰⁵ For Thomas Law, discretionary power was easily justified if it was consistent with the Company's economic interests.

In theory, collaboration would improve Company oversight on all revenue and revenue-related judicial matters. Extending Company control would also reduce the information costs of preventing misconduct and enforcing behavior at lower levels of the economic system. In actuality, this was not necessarily the case. The discretionary administrative power given to the natives was a double-edged sword, since the opportunistic native Collector could exploit it for personal gain. The principal-agent problem applied to natives as it did to English officials. In the previously discussed Barton case, the primary agents accused and criminally charged with misconduct were natives.¹⁰⁶

The involvement of native agents in legal matters concerning the actions of English EIC officials was thus unavoidable, and, in many cases, crucial to the rendering of judgment. As early as 1772, native testimony against English officials was possible. In an administrative inquiry into

¹⁰⁵ Thomas Law, *Letters to the Board, submitting by their requisition, a revenue plan for perpetuity* (Calcutta, 1789).

¹⁰⁶ Barton, *An Address to the Honorable Court of Directors*.

suspicious activities by a Board of Revenue member and a district supervisor, Major John Grant explicitly endorsed the claims of the native Gernjoo Bakarry Holdan against two English officials under investigation for misconduct.¹⁰⁷ More importantly, one was a member of the Board of Revenue, and the other was a Holdan's supervisor. Grant's endorsement is significant in that it implicitly approved native testimony against English officers, provided there were grounds for the claims. This is a significant contrast with the general injustice towards natives that is suggested in Kolsky's *Colonial Justice in British India*.

Native testimony was equally important in criminal investigations. As was the case in the investigations on the *Mary Mallaby*, Barton's prosecutors consulted the testimony of native witnesses. In response, Barton questioned the legitimacy of native testimony, arguing that the natives were a "horde of banditti, ready to swear to facts which they have never seen or heard of."¹⁰⁸ This protest not only involves language that reveals the attitudes of the defendants, but also points to the widespread use and acceptance of native testimony. If such testimony were insignificant and nonthreatening, Barton would not have been likely to focus a significant portion of his defense attempting to undermine its accuracy.

Given the financial complexity and lack of clear evidence in Rous's case, the Court of Directors again turned to native testimony. In this case, the Court of Directors approved the Presidency governor's decision to employ information received from natives regarding misconduct by those "entrusted with authority over them."¹⁰⁹ As was the case in the Barton investigation, the Court of Directors did not shy away from testimony by natives. This resulted in

¹⁰⁷ Letter from Major John Grant to the Governor and Council of Fort William, February 2, 1772, IOR/E/1/56 ff. 7-10v.

¹⁰⁸ Barton, *An Address to the Honorable Court of Directors*.

¹⁰⁹ Letter from Court of Directors to Governor Council at Fort St. George, August 19, 1829. IOR/E/4/937.

unique dynamics of power, in which native employees could exercise the legal right of testifying against a superior.

The difficulty of obtaining conclusive evidence in periphery areas was further illustrated in an 1846 dispatch regarding allegations against a head clerk of the Baroda Residency, a British political office within the internally autonomous state of Baroda. In the dispatch, directors noted the “striking exemplification of the extreme difficulty of establishing charges...by conclusive evidence.”¹¹⁰ In this case, the Court consulted the testimony of several native chiefs, including those who had offered bribes to the official in the first place. However, some of the witnesses later admitted to perjury on one occasion of their testimony, which they had committed out of fear of repercussions from the accused official, as well as due to the official paying back to them the amount of the initial bribe.¹¹¹

In this case, the act of perjury supports Barton’s protests against questionable testimony by natives. Although Barton maintained that their testimony was a result of manipulation by the prosecutor, while the acts of perjury in the Baroda case were incited by the defendant, both cases point to the greater issue of potential manipulation. For 19th century trials on malfeasance by EIC officials and employees, the influence of native testimony thus exacerbated existing issues of evidence and proof. Until the judicial process could be consolidated with the establishment of a colonial government under Crown rule, witness testimony would be problematic and could pose potential injustice to either the defendant or the Company’s investigative efforts.

Despite its potentially negative implications on justice, the occasional reliance on native testimony marks an exception to the historical understanding of colonial justice as a system of

¹¹⁰ Letter from Court of Directors to Bombay Political Department, February 10, 1841. IOR/E/4/1067.

¹¹¹ Letter from Court of Directors to Bombay Political Department, February 10, 1841. IOR/E/4/1067.

systemic inequality between white colonists and native Indians. In all cases considered thus far, Indian subjects, ranging in social rank from servant to government official, were able to testify against their white British superiors. In cases such as that of Peter Rous, such testimony was even encouraged.

Meanwhile, a lack of native testimony had other implications. A series of proceedings in Calcutta from 1834 to 1836 provides further insight to the complexity of EIC response to embezzlement in this area. Initial observations of irregular proceedings prompted Company investigations, which concluded that a significant extent of illegal exercise of power had taken place under C.J. Middleton, a provincial court judge in Calcutta. This was an instance of abuse of power permeating the judicial branch. However, the Court focused in particular on embezzlement by Middleton's head Native Servant Harchandar Lahori, which was facilitated by a fraudulent manipulation of Middleton's signature. As in the previously discussed cases, Middleton maintained his own lack of awareness, adding that the "difficulty of guarding against irregularity and fraud" was great.¹¹² The defense of ignorance proved futile. The Board of Revenue held that Middleton's explanation was unsatisfactory, and that Middleton should have been aware of "the necessity of greater caution" in his circumstances.¹¹³ More importantly, Middleton appeared to have delayed and omitted "ordinary measures of precaution," which was ultimately grounds for permanent suspension from his post.

The extent of Middleton's accountability is even more apparent when considering the sentencing of his head native servant. Proceedings in the Fort William Judicial department documented a sentence of a thirteen-year imprisonment for the crime of embezzling funds worth

¹¹² Letter to Bengal Judicial Department, June 21, 1836, IOR/E/4/747, p1241.

¹¹³ Letter to Bengal Judicial Department, June 21, 1836, IOR/E/4/747, p1245.

8,411 rupees.¹¹⁴ Despite the heavy consequences, Lahori did not implicate Middleton in any of the offenses. In contrast with the other cases where convicted natives implicated their superiors in their crimes, the lack of testimony by Lahori suggests that Middleton indeed may not have played a criminal role, or at least that evidence suggesting so was lacking. The Court's dismissal of Middleton thus suggests an extremely high standard of behavior required for Company servants in positions of power. In this case, the dismissal occurred even in the absence of reliable testimony by a native who had substantial incentive to implicate Middleton.

With regards to cases of managerial malfeasance, the position of the native subjects thus appears to be one of greater importance than would be the case in conventional legal matters as suggested by Kolsky. Due to the EIC's business and political interests, the legal field of managerial malfeasance and abuse of power was thus one taken very seriously by the Court of Directors, and one in which conventional prejudice against natives did not necessarily preclude the potential for a native to successfully act against a white official. The willingness to turn to the testimony of natives, who were conventionally viewed with prejudiced suspicions, points to the rhetorical benefit of proving corruption in otherwise difficult cases. On the other hand, though, Lahori's sentence reflects broader trends in investigations and sentencing measures taken against natives who were accused of comparable acts of corruption and malfeasance.

Despite the use of native testimony against English officials, the consequences for similar acts of malfeasance did vary between British and native official. This was evident in Lahori's case, where embezzlement comparable to those of previously discussed British officials prompted a thirteen-year prison sentence. British officials such as Barton and Evans, on the other

¹¹⁴ Papers on the Trial of Harchandar Lahori, Principal Native Officer of the late Calcutta Provincial Court, on charges of embezzlement, 1835, IOR/F/4/1537/61017.

hand, faced a comparatively light sentence of dismissal and monetary penalty. Meanwhile, Board of Revenue proceedings in 1824 outlined measures for increasing the power of government officials over native officers. The proceedings also notably compared financial embezzlement with “extortion and oppression,” suggesting a particularly high degree of hostility towards the former.¹¹⁵

In previous cases, native involvement in investigations and trials has proven to be controversial among those involved. In 1842, British Lieutenant-Colonel Ovans, a member of the British Bombay Government, brought charges against an Indian prince (Rajah), who had attempted to bring to light past corrupt practices by members of the Bombay government. The Rajah was subsequently deposed, charged, and imprisoned. One of the native witnesses used by Ovans, however, brought subsequent testimony against the actions of Ovans, adding an additional level of complexity to the case. According to witness Krushnajeve Sudasev Bhidey, Ovans had bribed him to secure false testimony against the Rajah, as part of a broader conspiracy to remove the Rajah.¹¹⁶ According to one member of the Court, Ovans’s *ex post facto* use of witnesses that had already testified to perjuring themselves amounted to “base and cold-blooded moral assassination.”¹¹⁷ By the time the Court of Directors reviewed the case in 1845, the case was essentially a matter of native testimony undermining a British governor’s own case against an Indian prince.

Scholars like Kolsky have noted a significant double standard for natives and British officers in court. The very possibility for a native servant to testify against a high-ranking British official in this case suggests that the generalization may not be true in matters involving

¹¹⁵ Letter to Revenue Department, August 18, 1824, IOR/E/4/930, p174.

¹¹⁶ *Debate at the India House, June 18, 1845, on the case of the deposed Raja of Sattara* (London: E. Wilson, 1845), 75.

¹¹⁷ *Debate at the India House*, 83.

misconduct by officials that would have significant implications for British government administration. Nonetheless, native agents appeared to face substantial barriers in the process. According to the Court of Directors, Bhidey “placed himself within British jurisdiction, and was bound over by a British judge, in heavy recognizance.”

In similar manner as prior defendants facing native testimony, Ovans and other Bombay government officials responded by questioning the credibility of Bhidey. The Court conceded that it would indeed be an injustice to subject a British public officer to “every vague or foolish charge made by persons of suspicious and disreputable character,” and that, if commonly practiced, such subjection would result in significant inefficiency of government.¹¹⁸ In this statement, the inferiority of native agents, as noted by scholars such as Kolsky, appears to be true. However, the Court of Directors specified that when the charges were grave, and when the accuser “binds himself under heavy penalties to substantiate his accusations,” then the government would be obligated to fully investigate the charges.

The accusations in the Ovans case extended to the Bombay Government as a whole. The Court of Directors ultimately maintained that the government “fabricated documents,” procured false testimony, and otherwise impeded the investigation.¹¹⁹ The notion of multiple levels of government corruption being covered up appeared very possible in this instance. A native witness by the name of Rungoo Bapojee even proclaimed that it “was both remarkable and lamentable that a country like England, so famed...[for] its love of justice, should be called to witness a spectacle so shameful.”

A similar allegation of conspiracy took place within the Fort Marlborough council, where the official Edward Coles was involved in an intricate series of accusations. The events began

¹¹⁸ *Debate at the India House*, 74.

¹¹⁹ *Debate at the India House*, 88.

when Coles brought forth a suit against several members of the Fort Marlborough Council, who were working under his administration. Although those charges were removed by the Court's "equitable determination," Coles held that the servants in question subsequently attempted to make a case against him in retaliation. In a letter addressed to the Court of Directors, Coles emphasized their "malevolent disposition," their attempt to expose any flaws to "hurt [Coles] in the opinion of your honors," and the indignity he suffered as a result.¹²⁰ Coles' allegations of fabricated evidence and a coordinated attack are highly similar to the conspiracy described by Ovans. Although most cases were handled in a straightforward manner, complex cases and notions of conspiracy in these instances contributed to the overall public concerns about the problems and vices of colonial India.

Conclusion

The variety of the cases and the responses suggest that there is no straightforward explanation. Simultaneously interacting factors such as monetary loss, political implications, and exploitation of informational barriers meant that outcomes were difficult to predict. Instead, the overall conclusions that can be drawn are reflective of more general motives of colonization and expansion, rather than company response purely as either a commercial entity or a political authority. Regardless of outcome, the Company responses to malfeasance by its agents, both English and Native, point to a clear goal of promoting what it believed was a distinctly British set of virtues and ideals. This is consistent with notably high standards for figures of greater authority. Similarly, standards appeared to be strict in departments such as the military, where traditional virtues and ideals are arguably more important. Meanwhile, the Directors and Board of control employed a uniformly harsh tone in its criticism and rebuke of the violators, even in

¹²⁰ Letter from Edward Coles at Fort Marlborough to the Court complaining about the conduct of the Council in Fort Marlborough, November 20, 1772, IOR/E/1/56 ff 252-253.

cases where criminal charges were dropped, or where the accused had long since left the post.

This was indicative of the perceived problems of colonialism and the subsequent justification of increased British presence in colonial India.

Within the broader historiography, the sources thus support Dirks' argument of scandal as an instrument to imperial expansion, while extending that claim beyond major figures such as Warren Hastings. The observations on Company response to malfeasance suggest that the use of corruption and malfeasance to justify increased regulatory and supervisory measures was indeed present at lower levels of government in India. Where Dirks claims that a personal scandal (i.e. Hasting's scandals) was transformed into the epic of imperial narrative, the conclusions in this thesis qualify the statement as not just being true for Hastings, but for individuals as seemingly insignificant as the collectors or servants questioned in the documents.

Conversely, this analysis calls into question some of the more dismissive stances regarding Company response to corruption and malfeasance. In *The Business of Empire*, Bowen claimed that dismissal or legal action against corrupt and malfeasant servants was theoretically possible, but seldom enforced or pursued in practice. The basis for this was the argument that costs of doing so were simply too great. As such, Bowen cited a descriptions along the lines of "threats never carried into execution" and concluded that it was "doubtful whether the directors possessed the resolve necessary to pursue miscreants to the bitter end."¹²¹ Although Bowen did acknowledge certain "serious matters" that "could not simply be ignored or dismissed,"¹²² these exceptions are limited to extensive malfeasance in major departments such as revenue collection.

Situated within an analysis of corruption and malfeasance as a purely administrative problem, Bowen's explanation is understandable. However, the cases thus far contradict the

¹²¹ Bowen, *Business of Empire*, 211.

¹²² Bowen, *Business of Empire*, 211.

assertion that directors were unlikely to pursue violators to the “bitter end.” In some cases, successful investigations did indeed force servants to repay the sum of the losses. Other cases involved extensive investigation and prosecution to this “bitter end,” even when full repayment of losses was impossible. These were instances where the costs investigation clearly exceeded any tangible monetary benefit. Here, the decision to do so and the invocation of broader virtues and ideals signifies a consideration of factors beyond those of purely monetary value. Instead, these are considerations that point to Company response as multifaceted and largely politically-driven, or, in other words, an expansion of Dirks’ argument that scandal was crucial to imperial ambitions.

By the time the Crown government ended the East India Company’s charter and took control of India in 1858, corruption and malfeasance had indeed paved the way for established systems of imperial government. Although direct Crown rule was newly established, it did not have to create or develop new institutions of government – established regulatory measures, criminal and civil justice systems, and measures to deal with both public corruption and agent malfeasance had already long been set in place. Subsequent years of imperial British rule thus transitioned naturally from the late period of the East India Company, which had already resembled political and civil government to a much greater extent than did its purely commercial predecessor. The understanding of corruption and malfeasance as an impetus to expansion of political control is consistent with a relatively smooth transition between Company rule and direct Imperial rule by the Crown. The argument that such implications of corruption and malfeasance applied not just to major figures but also at local levels conforms to the transitional narrative in similar manner.

The understanding of corruption and malfeasance advanced in this thesis extends beyond the East India Company and the British Empire. Dirks' ultimate conclusion is that the implications of the Hastings scandal reflected not just British imperialism, but a critical moment in the global emergence of the nation-state and the "modern idea of sovereignty."¹²³ Likewise, the conclusions drawn from the documents in this thesis provide some initial support of broader arguments for the Wallersteinian theory of the modern world-system and its constituent core- and periphery- countries. In this context, the implications of corruption, malfeasance, and the governmental responses are universal aspects of early nation-state development, transcending conventional analytical framework of empire or state.

¹²³ Dirks, *The Scandal of Empire*.

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