

**BINDA PREET SAHNI\***

## A Legal Analysis of the British East India Company

**Abstract.** This article examines the corporate conduct of the British East India Company (1600–1874). The EIC was a state corporation that required the participation of private actors in England and British colonies. In India the EIC established a firm presence for the British Empire. British rule was profitable for the Crown but had pros and cons for the people of India. This article asks: Is a state corporation accountable for unethical and illegal profit making in another country? Or can it be excused on the grounds that a company is a mere artificial personality and incapable of human behavior?

**Keywords:** British East India Company, transnational, multinational corporation, *Salomon v. Salomon & Co Ltd.*, Boston Tea Party, Sepoy Revolt 1857

### 1. Introduction

The British East India Company (1600–1874) was a Crown chartered company. Its head office was the East India House in London. The Company had exclusive rights to pursue trade in the East Indies but focused mainly on India.

The entity is an important test case for discussion of the early development of corporate governance in England, precisely because it was a state corporation that catered to private actors as well. There were 215 shareholders when the Company was founded.<sup>1</sup> Thus the Company sought profit maximization for Crown and citizens. The quest for dividends led the East India Company to launch an administrative and military presence in India in order to gain access to territories and extract revenues. These roles gave the Company governing authority over local populations. As a result, the British Empire expanded. Unfortunately, these global aims were often at the expense of the people of India. At issue is the corporate conduct of the Company from a monetary and human rights perspective. Is a state corporation accountable for unethical and illegal profit making in another country? Or can it be excused on the grounds that a company is a mere artificial personality and incapable of human behavior?

In 1612 the King’s Bench denied that companies can commit criminal acts. Lord Coke ruled in the *Case of Sutton’s Hospital*<sup>2</sup> that, “[Corporations] cannot commit treason, nor be outlawed, nor excommunicate, for they have no souls.” This interpretation, to an extent, protects the directing minds of a corporation. If, on the one hand, a legal person’s deeds are not considered equivalent to those of a natural person, then senior management who approves or authorizes the deeds can evade responsibility. That insulation of human operators subscribes to a narrow reading of the reasoning that, “A corporation is an artificial

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<sup>1</sup> East India Company, Frederick Charles Danvers (1833–1906) and Sir William Foster (1863–1951), *Letters received by the East India Company from its servants in the East* (London, 1896), xxiii.

<sup>2</sup> *Case of Sutton’s Hospital* (1612) 77 ER 960, 973.

being, invisible, intangible, and existing only in contemplation of law.”<sup>3</sup> This favored treatment is at odds with the mandate of state corporations. A state, it is argued, creates companies mainly to benefit human beings.<sup>4</sup> Therefore, a juristic person that performs deeds on behalf of natural persons does not have impaired legal capacity.<sup>5</sup>

The British state countered defects in the corporate governance of the East India Company several times by restructuring the Board of Directors and shareholder rights. The attempts were ineffective due to continuing corruption of Company employees in England and abroad. It was not until 1857 that the State took its most decisive measure. The Sepoy Revolt of 1857 in India had incurred great economic and political cost to the Crown. It was the catalyst for Parliament to pass the Government of India Act 1858. The Act transferred the Company’s functions to the Crown permanently. However, it did not dissolve the languishing East India Company. The Company was wound up in 1874. The British Government built upon its work to enrich the Empire further. India remained a strategically relevant market and political colony until its independence in 1947.

This Article will analyze the corporate structure and mandates of the East India Company. It will examine how these mechanisms guided the trading company to evolve into a political arm of the British Government.

## 2. Charter of the British East India Company

The British East India Company (EIC) came into existence on New Year’s Eve 1600. Queen Elizabeth I signed the Charter to form the *Governor and Company of Merchants of London, Trading into the East-Indies*.<sup>6</sup> It is clear from the Charter that the trading company had a merged identity. The EIC was a corporate and political body. The EIC served the State, even though it was a joint-stock company, and the shareholders were private investors. The initial capital was used to buy ships for financing voyages. However, the commercial mandate of the corporation to earn profits and dividends was tied to the accruing wealth of the State.

If we examine the original text of the Charter, it cannot be disputed that the Company was a quasi-public entity that answered to the British Government. For example, even security apparatus hired by the EIC, such as the East India Company Army, were not wholly private units. From 1750–1858 the Army acted on territorial and administrative issues on the Crown’s behalf.<sup>7</sup> It operated through an imperialist lens. The result was that the East India Company became a transnational corporation.

<sup>3</sup> *The Trustees of Dartmouth College v Woodward*, 17 U.S. 518, 636 (1819).

<sup>4</sup> Machen, A.: Corporate Personality. *Harvard Law Review*, 24 (1911) 4–5 at 6.

<sup>5</sup> Koessler, M.: The Person in Imagination or Persona Ficta of the Corporation 9(4) *Louisiana Law Review* (May 1949) at 447: “There is nevertheless a fundamental mistake involved in the theories which deny the reality, even as a matter of law, of a juristic person.”

<sup>6</sup> Charter Granted By Queen Elizabeth, To The Governor And Company Of Merchants Of London, Trading Into The East-Indies, Dated the 31<sup>st</sup> December, in the 43<sup>rd</sup> Year of Her Reign, Anno Domini, 1600. [Hereafter Charter of 1600].

<sup>7</sup> “Raising Soldiers for India,” The Memorial and Petition of the Court of Directors of the United Company of Merchants of England trading to the East-Indies, 21st. May 1789, CO 77/26, ff. 104–5.

“ELIZABETH, by the Grace of God, Queen of *England, France, and Ireland*, Defender of the Faith, &c. To all our Officers, Ministers and Subjects, and to all other People, as well as within this our Realm of *England* as elsewhere, under our Obedience and Jurisdiction, or otherwise, unto whom these our Letters Patents shall be seen, shewed or read, greeting. WHEREAS our most dear and loving Cousin, *George, Earl of Cumberland*, and our well-beloved Subjects, ... have of our certain Knowledge been Petitioners unto us, for our Royal assent and Licence to be granted unto them, that they, at their own adventures, Costs and Charges, as well as for the Honour of this our realm of *England*, as for the Increase of our Navigation, and advancement of Trade of Merchandise, within our said Realms and the Dominions of the same, might adventure and set forth one or more Voyages, with convenient Number of Ships and Pinnaces, by way of Traffic and Merchandise to the *East-Indies*,...

KNOW YE THEREFORE, THAT we greatly tendering the Honour of our Nation, the Wealth of our People, and the Encouragement of them, and others, of our loving Subjects in their good Enterprises, for the Increase of our Navigation, and the Advancement of lawful Traffic, to the Benefit of our Common Wealth... have of our especial Grace, certain Knowledge, and mere Motion, given and granted, and by these Presents, *for us, our Heirs and successors*, do give and grant unto our said loving Subjects, before in these Presents expressly names, that they and every of them from henceforth be, and shall be one Body Corporate and Politick, in Deed and in Name, ... *really and fully, for us, our Heirs and Successors.*” [emphasis added]

The primary beneficiaries of the EIC were the Monarch and royal heirs and successors. By including these parties in the Charter, Queen Elizabeth I intended for the EIC to survive as a long-term enterprise. Her foresight was necessary since she signed the Charter in the 43<sup>rd</sup> year of her rule and died two years after.

The royal beneficiaries relied on the Company’s employees to consolidate economic and political control for them. This relationship made the employees the Crown’s agents, even if based outside England. It was assisted by the nature of the EIC Charter which gave the Company sufficient autonomy to operate. The Charter was valid for an initial 15 years and renewable thereon.<sup>8</sup> It designated managerial responsibility to the East India House where the Governor and Court of Directors sat.<sup>9</sup> Each Director owned at least 2,000 shares. The EIC’s shareholders elected 24 Directors annually. Each shareholder owned at least 500 shares and cast one vote.<sup>10</sup> The Governor and Directors were authorized to make by-laws.

<sup>8</sup> Charter of 1600. *The Law Relating To India And The East India Company* (London, 1841).

<sup>9</sup> *Ibid.*

<sup>10</sup> These criteria were modified by the Regulating Act of 1773. An Act for Establishing Certain Regulations for the Better Management of the Affairs of the East India Company, as well in India as in Europe, 13 Geo. 3 c. 63.

They could also fine or imprison offenders, as long as the penalty complied with English law.<sup>11</sup>

It should be emphasized that the Charter was also a progressive commercial document. The Charter allowed the EIC to conduct itself as a joint stock entity with limited liability. These concepts had yet to be approved by statute and common law. The Joint Stock Companies Act 1884<sup>12</sup> and Limited Liability Act 1855<sup>13</sup> were not enacted, while the judgment in *Salomon v Salomon & Co Ltd.*<sup>14</sup> followed in 1897. In *Salomon* the House of Lords formally linked incorporation with limited liability. Incorporation deems the company as a legal person. Limited liability makes the company accountable in law. Because the corporation is not an agent of its employees or shareholders, there is a 'veil' or 'shield' between the corporation and those actors. The company's management and shareholders cannot be personally liable for any corporate debts or actions. However, limited liability does not guarantee permanent immunity. A court can lift the veil of incorporation when a corporate actor commits fraud or a crime.<sup>15</sup>

For two and a half centuries the East India Company was not subject to regulation by the Acts and *Salomon*. How, then, did the judiciary and the EIC address transgressions by East India House and EIC employees abroad? The issues of conflicts of interest and breach of duty of care are discussed below.

### 3. The application of the limited liability structure to the EIC

The courts tended to view the EIC as an agent of its employees and contractors. In *The Case of Thomas Skinner Merchant v The East India Company* (1666)<sup>16</sup> and *Rafael v Verelst* (1775),<sup>17</sup> the EIC unsuccessfully applied the defense that it was not liable for the unauthorized acts of its agents. Thomas Skinner had a rival trading post in the East Indies. He accused EIC sailors of personal injury against him and theft of his ship and goods.<sup>18</sup> The House of Lords ordered the Company to pay damages of £ 5,000. In *Rafael v Verelst*, the King's Bench widened the net of accountability. It attached individual liability to senior management. The defendant was the Governor of Bengal. He was required to compensate an Armenian trader for torts by the Nawab of Bengal. The Nawab was not an employee of the EIC. Still the court found that he had served as an agent or instrument of the Company.<sup>19</sup> The agency relationship was present even if the Nawab acted without instructions; this was due to the factors of awe and influence held by the defendant over the Indian royal.<sup>20</sup> Therefore, the Company's executives were responsible for trespass, assault, and false imprisonment done on behalf or in name of the Company. In this context the judgment

<sup>11</sup> Charter of 1600.

<sup>12</sup> Joint Stock Companies Act 1844 (7 & 8 Vict. c. 110).

<sup>13</sup> Limited Liability Act 1855 (18 & 19 Vict. c. 133).

<sup>14</sup> *Salomon v Salomon & Co Ltd.* [1897] AC 22, 51

<sup>15</sup> *R. v Seager* [2009] All ER (D) 283.

<sup>16</sup> The Case of Thomas Skinner, Merchant v The East India Company (1666) 6 State Trials 710 (H.L.).

<sup>17</sup> *Rafael v Verelst* (1775) 96 ER 579 (KB).

<sup>18</sup> The Case of Thomas Skinner, Merchant v The East India Company, 711.

<sup>19</sup> *Rafael v Verelst*, 623.

<sup>20</sup> *Ibid.*

appears politically motivated. The EIC, which was a State corporation, avoided incurring liability as did the Crown. Instead the employee of the Crown, the defendant, assumed full charge in his role as an agent. The court viewed the Governor as a trustee of the Crown within the framework of corporate governance.

The reality was that corporate governance was subordinate to corporate mismanagement. The reason was that not all disputes reached the litigation stage. This meant that the structure of the EIC benefitted management personnel to engage in malpractice. Corruption was a lucrative way to amass personal profit.

“So early as 1693, it appeared from Parliamentary inquiries, that the annual expenditure of the East India Company, under the head of “gifts” to men in power, which had rarely amounted to above £1,200 before the revolution, reached the sum of £90,000. The Duke of Leeds was impeached for a bribe of £5,000, and the virtuous King himself convicted of having received £10,000. Besides these direct briberies, rival Companies were thrown out by tempting Government with loans of enormous sums at the lowest interest, and by buying off rival Directors.”<sup>21</sup>

The economist Adam Smith argued that it was inevitable for these conflicts of interest to occur in joint stock companies—and particularly in entities like the East India Company, which had a political mandate.<sup>22</sup> He warned that human nature could not ensure business ethics in joint stock ventures. Negligence and profusion by directors and shareholders was to be expected. Entrusted with the money of other people, directors and managers were likely to be more vigilant with their own funds. They were, after all, mere servants of the company they worked for. Shareholders, on the other hand, were more concerned with maximizing their dividends. They perhaps would care less about the company and be more willing to tolerate illegal gain. A multinational company like the EIC was even more incapable of monitoring its employees. It faced the ‘principal agent problem’.<sup>23</sup> Because the Crown gave the Company a commercial and territorial presence in India, the Company could not control financial abuse by the colonial administration. Directors in the East India House often appointed employees in India to do personal transactions for them. This was outside the scope of employment of both parties. It was also a breach of fiduciary duties at the expense of the Company’s fiscal health.

Accounting practices were another case of intentional financial mismanagement. The Charter required the EIC to present Parliament with annual accounts of expenses in India.<sup>24</sup> Yet the Court of Directors failed to keep timely and diligent records.<sup>25</sup> It was able to repeat

<sup>21</sup> Marx, K.: *The East India Company—Its History and Results*. *New-York Daily Tribune*, July 11, 1853. Also see Macaulay, Th. B.: *Warren Hastings*. London, October 1841 at paras 7 and 16.

<sup>22</sup> Smith, A.: *An inquiry into the Nature and Causes of the Wealth of Nations*. Vol. II. Chicago, 1976, 265.

<sup>23</sup> *Ibid.* 276.

<sup>24</sup> “Government of India—Adjourned Debate”, *HC Deb 09 June 1853 vol 127 cc1300-52* at 1300.

<sup>25</sup> “East India Company’s Revenue Accounts”, *HC Deb 08 August 1854 vol 135 cc1436-77* at 1436. Statement of Sir Charles Wood, President of the Board of Control of the East India Company. The President of the Board of Control was a Cabinet position and later was known as the Secretary of State for India.

the offence for years since the Government did not enforce disclosure.<sup>26</sup> Here, the State's role comes into question. Did the State refrain from intervention because it lacked influence, or did it deliberately tolerate a lax financial system? The latter could be perceived as complicity, and attributes blame to both Crown and Company. If the Crown was complicit by remaining passive, then the motivation would be due to the dual personality of the EIC as a chartered entity. The Company's commercial and political functions were intermingled.<sup>27</sup> Unfortunately, the State gave priority to these economic and imperial aims. Instead of demanding accountability from the Court of Directors, it permitted a lapse in standard of care.

The nexus between corruption and political ambition is shown again by the Crown's reticence to discipline erring agents. The EIC had carried out torture in India for pecuniary ends since 1806.<sup>28</sup> It collected taxes by using terror tactics.<sup>29</sup> In 1854 the House of Lords confirmed that the use of torture was systematic.<sup>30</sup> Parliament called for the Company to investigate its police and revenue departments. By appointing the Company only, it distanced itself from any prior knowledge of torture in the colonies. The Government absolved itself of divided responsibility for acts of the Directors.<sup>31</sup> But its denial had other repercussions. The infliction of cruel punishment to enrich the EIC was not limited to tax collection. It was applied as a deterrent in other areas, like acquiring land and succession rights for the Empire. The risk of personal injury was an effective weapon. However, it was grave enough to raise doubts in the House of Lords. What was tolerated by the State in India was denounced in the more democratic environment of England. *"Take, again, the case of the Maharanees of Nagpore, which is a case of torture, not, I admit, in a violent sense of the word, by the application of the kittee to the hands, or powdered chillies to the eyes of these ladies (for those are expedients which I believe the hon. Company reserve for the extortion of confession or revenue), but torture not less acute, because prolonged and mental. On the death of the late Maharajah, his widows, in the undoubted exercise of their rights, according to Hindoo law, proceeded to nominate his infant successor to the vacant gadee, upon which British troops marched into Nagpore, threw the Ministers and the relatives of the late Sovereign into the common gaol, swept away the private property of the widows to the extent of two millions and a half, filled the palace of these illustrious ladies with Sepoys, under the command of a British officer, and deprived them of the means of even exercising the rights of their religion until they had extorted from them a release of their legal rights. Sir, two of these ladies are now no more—no discussion in this House can affect them—whether, borne down by accumulated indignities, they perished by poison administered by their own hands, or by the servants and at the instance of the Directors, is one of those fell mysterious secrets which fiends, both human and unearthly, have conspired to consign to the dark archives of hell; but be this how it may, the Company are equally their murderers."*<sup>32</sup>

<sup>26</sup> *Ibid.*

<sup>27</sup> Macaulay, Th. B.: *Government of India*. A Speech Delivered in the House of Commons on the 10<sup>th</sup> of July 1833 at para. 2A.

<sup>28</sup> *Torture in India*. HL Deb 29 February 1856 vol 140 cc 1563–73 at 1565. Statement of The Earl of Ablemarle.

<sup>29</sup> See *Report of the Commission for the Investigation of Alleged Cases of Torture in the Madras Presidency* (1855) Chennai: Tamil Nadu State Archives.

<sup>30</sup> *Torture in India*. *op. cit.* cc 1563–73.

<sup>31</sup> *Ibid.* cc 1568.

<sup>32</sup> *Revenues of India*. HC Deb 18 April 1856 vol 141 cc 1189–237 at 1208–1209. Statement of Mr. Murrrough.

#### 4. The growing political-military roles of the EIC

By the 1700s the colonies began to rebel against the Crown's laws and policies. The East India Company did not escape the enmity. It was perceived as a political prop in India and America. The public there instigated confrontations such as the Boston Tea Party of 1773 and Sepoy Revolt of 1857. These two incidents compelled a greater military role for the EIC. However, as its political authority grew, the Company acted less in self defense. It centered on expanding the British Empire. The annexation of Punjab in 1846 demonstrates the joint military and diplomatic character of the Company's operations.

##### i) Boston Tea Party

The American War of Independence (1775–1783) ended British rule. British colonies in North America formally seceded from the Crown on July 2, 1776.<sup>33</sup> Britain did not recognize the rebellion or the authenticity of the Declaration of Independence,<sup>34</sup> a document that approved the creation of the United States of America on July 4, 1776.

The War had commenced one year before. It was made possible in part by eliminating the EIC's market share in the colonies.

In 1773 residents in Philadelphia, Boston, New York and Charleston formed an economic boycott of the EIC. The protest was also directed at the Crown as a demand for full political autonomy. It was triggered when Parliament passed The Tea Act.<sup>35</sup> The purpose of the Act was to make the sale of Chinese tea more affordable in the colonies. This was also to setback rival exporters, mainly the French and Dutch East Indian Companies which had established a black market in the colonies. These entities smuggled inexpensive tea to North America.<sup>36</sup> The Act, in contrast, did not operate under an umbrella of piracy. It allowed the EIC to ship tea directly from Britain. The EIC would benefit since it would no longer had to pay import and export duties in Britain.<sup>37</sup> These measures would give the EIC a dominant monopoly but not an exclusive right of trade.

Most of the colonists who opposed the Act interpreted the law as undue interference with local commerce. Yet they forced regional distributors appointed by the EIC to resign.<sup>38</sup> The colonists took the further step of sabotaging the shipments. In events referred to as the Boston Tea Party, they prevented the merchants from taking possession of the goods.<sup>39</sup>

Did the colonists act unfairly to the Company? Was the Boston Tea Party illegal? The answers are yes. Firstly, the Tea Act was not a financial liability. It reduced the price of tea

<sup>33</sup> The thirteen colonies were New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

<sup>34</sup> The Declaration of Independence, The unanimous Declaration of the thirteen United States of America, In Congress July 4, 1776.

<sup>35</sup> The Tea Act 1773, 13 Geo. 3 c. 44. An act to allow a drawback of customs on the exportation of tea to any of his Majesty's colonies or plantations in America; to increase the deposit on bohea tea to be sold at the India Company's sales; and to empower the commissioners of the treasury to grant licenses to the East India Company to export tea duty-free.

<sup>36</sup> "Poplicola", *Rivington's New York-Gazeteer*, 12 Nov. 1773.

<sup>37</sup> The Tea Act, para. IV.

<sup>38</sup> Ramsay, D.: *The History of the American Revolution*. 1789.

<sup>39</sup> *Ibid.*

by nine pence per pound.<sup>40</sup> Nor did it afflict potential consumers with extra tax. The import duty in the colonies remained at three pence per pound.<sup>41</sup>

Opponents of The Tea Act colluded to purge the EIC's commercial presence. They reasoned that Parliament had imposed the tax without their consent and thus the Act was unconstitutional.<sup>42</sup> It was the patriotic duty of all Americans to join the embargo.<sup>43</sup> Ironically, this demand obliged colonists to consent. Individuals could not exercise their freedom of choice to buy the tea or not. The command was conveyed hence: "That whoever shall directly or indirectly countenance this Attempt, or in any wise aid or abet in unloading, receiving, or vending [selling] the Tea sent, or be sent out by the East India Company, while it remains subject to the Payment of a Duty here, is an Enemy to his Country."<sup>44</sup> In reality, the colonists were not American citizens but British subjects of King George III. They were also civilians, and the threat of ostracism from the local population caused them to transfer their allegiance from the Home State.

Organized resistance<sup>45</sup> ended exports of EIC tea. All shipments of tea were refused landing rights in Philadelphia, Boston, New York and Charleston. The 'Destruction of the Tea'<sup>46</sup> occurred when three ships awaiting customs clearance were vandalized. Protestors boarded the ships and hurled all cargo into Boston Port.<sup>47</sup> The episode was celebrated as the Boston Tea Party but was illegal. Though justified as a private trespass dispute between private persons,<sup>48</sup> it was treason that took place on public property against the Crown. The seizure and disposal of goods constituted theft, trespass, and nuisance (due to polluting of the waters). Parliament responded with economic sanctions. It passed the Boston Port Act<sup>49</sup> in 1774 to suspend mercantile activity.<sup>50</sup> The Port was closed until the Town of Boston paid

<sup>40</sup> *From a letter to the Boston Gazette, August 15, 1768*: "The duty that was before paid upon Tea, in Great-Britain, was one shilling a pound. This duty is now taken off by a drawback, and three pence sterling only a pound is imposed on the importation of it into the colonies. In this manner nine pence a pound sterling is saved to the consumer, which, considering the quantity used upon the continent, is a great thing."

<sup>41</sup> Revenue Act of 1767, 7 Geo. III ch. 46.

<sup>42</sup> Citizens of Plymouth, Massachusetts, 7&13, resolutions for and against supporting the Philadelphia resolves, *Boston News-Letter*, 23 December 1773.

<sup>43</sup> Citizens of Philadelphia, Pennsylvania, assembled at the State House, 18 October 1773, resolutions for the boycott of East India Company tea, *Pennsylvania Gazette*, 20 October 1773 at para. 6.

<sup>44</sup> *Ibid.* para. 7.

<sup>45</sup> Committees of Correspondence.

<sup>46</sup> John Adams, Diary, Braintree, Massachusetts, 17 December 1773.

<sup>47</sup> *The Boston Gazette*, 20 December 1773.

<sup>48</sup> Ramsay: *op. cit.*

<sup>49</sup> An Act to discontinue, in such manner, and for such time as are therein mentioned, the landing and discharging, lading or shipping, of goods, wares, and merchandise, at the town, and within the harbour, of Boston, in the province of Massachusetts Bay, in North America, 14 Geo. III c. 19.

<sup>50</sup> *Ibid.* WHEREAS dangerous commotions and insurrections have been fomented and raised in the town of Boston, in the province of Massachusetts's Bay, in New England, by divers ill affected persons, to the subversion of his Majesty's government, and to the utter destruction of the publick peace, and good order of the said town; in which commotions and insurrections certain valuable cargoes of teas, being the property of the East India Company, and on board certain' vessels lying within the bay or harbour of Boston, were seized and destroyed: And whereas, in the present condition of the said town and harbour, the commerce of his Majesty's subjects cannot be safely carried on



damages to the EIC.<sup>51</sup> However, compensation never materialized. The Boston Committee of Correspondence projected itself to the other colonies as a joint target with them. It argued that they, too, would fall victim to similar legislation.<sup>52</sup> The colonies then allied with Boston to resist trade with Britain.<sup>53</sup> The deal accelerated the independence movement.

## ii) Sepoy Revolt

Unlike in North America, the East India Company was able to defer the independence movement more successfully in India. It is fortunate that it did so in one particular circumstance. The Company's army of European soldiers and native troops from Bombay, Madras, and Punjab repelled the Sepoy Revolt of 1857. An insurrection by the Bengal Regiments of the army, the Revolt was not initiated to emancipate India from outside rule. Instead it was a campaign of miscalculations that harmed the interests of local populations. The mutineers partook in mass carnage, to which the EIC army retaliated; in addition, they restored the Mughal Empire. As a result, when the Revolt ended in 1858, Queen Victoria

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*there, nor the customs payable to his Majesty duly collected; and it is therefore expedient that the officers of his Majesty's customs should be forthwith removed from the said town: ... be it enacted ..., That from and after June 1, 1774, it shall not be lawful for any person or persons whatsoever to lade, put, or cause to procure to be laden or put, off or from any quay, wharf, or other place, within the said town of Boston, or in or upon any part of the shore of the bay, commonly called *The Harbour of Boston*, between a certain headland or point called Nahant Point, on the eastern side of the entrance into the said bay, and a certain other headland or point called Alderton Point, on the western side of the entrance into the said bay, or in or upon any island, creek, landing place, bank, or other place, within the said bay or headlands, into any ship, vessel, lighter, boat, or bottom, any goods, wares, or merchandise whatsoever, to be transported or carried into any other country, province, or place whatsoever, or into any other part of the said province of the *Massachuset's Bay*, in New England; or to take up, discharge, or lay on land, ... within the said town, or in or upon any of the places aforesaid, out of any boat, ... any goods, wares, or merchandise whatsoever, to be brought from any other country, province, or place, or any other part of the said province of the *Massachuset's Bay* in New England, upon pain of the forfeiture of the said goods, ... merchandise, and of the said boat, ... and of the guns, ammunition, tackle, furniture, and stores, in or belonging to the same: And if any such goods, ... shall, within the said town, or in any the places aforesaid, be laden or taken in from the shore into any barge, ... to be carried on board any ship or vessel outward bound to any other country or province, ... or to be laden into such barge, ... from or out of any ship or vessel coming in ... from any other country, such barge, ... shall be forfeited and lost...*

<sup>51</sup> *Ibid.* para. X. Provided also, and it is hereby declared and enacted, That nothing herein contained shall extend, or be construed, to enable his Majesty to appoint such port, harbour, creeks, quays, wharfs, places, or officers, in the said town of *Boston*, or in the said bay or islands, until it shall sufficiently appear to his Majesty that full satisfaction hath been made by or on behalf of the inhabitants of the said town of *Boston* to the united company of merchants of *England* trading to the *East Indies*, for the damage sustained by the said company by the destruction of their goods sent to the said town of *Boston*, on board certain ships or vessels as aforesaid; and until it shall be certified to his Majesty, in council, by the governor, or lieutenant governor, of the said province, that reasonable satisfaction hath been made to the officers of his Majesty's revenue, and others, who suffered by the riots and insurrections above-mentioned, in the months of November and December, in the year one thousand seven hundred and seventy three, and in the month of January, in the year one thousand seven hundred and seventy four.

<sup>52</sup> Circular Letter of the Boston Committee of Correspondence, May 13, 1774.

<sup>53</sup> See the Coercive Acts.

undertook measures to strengthen British political control. She ultimately assumed the title Empress of India in 1877.<sup>54</sup>

The Sepoy Revolt began on May 10, 1857 in Meerut and fell on June 20, 1858 in Gwalior. The cause of discontent was the Army's use of a new Enfield rifle. Cartridges were wrapped in grease paper, which the soldiers bit off to retrieve the bullet and load the gun. It is unknown whether the grease fat was animal or vegetable. Muslim and Hindu soldiers did not object until a routine event brought religious concerns to their attention.

“One day toward the end of January last, a workman employed in the magazine at Barrackpore, an important station about seventeen miles from Calcutta, stopped to ask a Sepoy for some water from his drinking-vessel. Being refused, because he was of low caste, and his touch would defile the vessel, he said, with a sneer, “What caste are you of, who bite pig's grease and cow's fat on your cartridges?” Practice with the new Enfield rifle had just been introduced, and the cartridges were greased for use in order not to foul the gun. The rumor spread among the Sepoys that there was a trick played upon them, – that this was but a device to pollute them and destroy their caste, and the first step toward a general and forcible conversion of the soldiers to Christianity.”<sup>55</sup>

In Meerut the 3<sup>rd</sup> Bengal Light Cavalry protested against using the cartridges. It rejected even the grease-free cartridges that were the norm before the new rifle was introduced.<sup>56</sup> For their insubordination, the 85 men were court-martialled on May 9 by native officers. They were sentenced to 6 to 10 years imprisonment with hard labor. The sepoys were taken to Meerut Jail but escaped due to a second mutiny: this time by the 11<sup>th</sup> and 20<sup>th</sup> Bengal Native Infantry. On May 10 the Infantries opened the jail gates and released the 3<sup>rd</sup> Cavalry as well as 1500 prisoners.<sup>57</sup> All fugitives accompanied the Bengal Army and participated in mob violence to massacre British officers and European civilians.<sup>58</sup> Then they went to Delhi.

There the Bengal Army formed another misjudgment. On May 11 it endorsed the figurehead Moghul king of Delhi, Muhammed Bahadur Shah II. A pensioner of the British Government,<sup>59</sup> Bahadur Shah withdrew his loyalty to the Crown. The collaborator sepoys proclaimed Bahadur Shah as Emperor of India with the intent to reinstate the Moghul Empire. They gave as their reasons the need to stop the EIC from forcibly converting Indians to Christianity. In this way the Sepoy Revolt sought to depict itself as a religious

<sup>54</sup> “An Act to enable Her most Gracious Majesty to make an addition to the Royal Style and Titles appertaining to the Imperial Crown of the United Kingdom and its Dependencies” (Royal Titles Act of 1876), 39 & 40 Vict., c. 10.

<sup>55</sup> Hazewell, Ch. C.: *The Indian Revolt. The Atlantic Monthly*, 1 (1857) 2, 217.

<sup>56</sup> *The Mutiny of the Bengal Army: An Historical Narrative By One Who Has Served Under Sir Charles Napier*. London, 1857, 34.

<sup>57</sup> *Ibid.* 37.

<sup>58</sup> Hazewell: *op. cit.* 217.

<sup>59</sup> Major Fred J. Harriot, Deputy Judge Advocate General & Government Prosecutor, “List of Charges Against Bahadur Shah (1858)”, Proceedings of a European Military Commission assembled at Delhi at on 27<sup>th</sup> day of January 1858: Charges against the Prisoner Muhammed Bahadur Shah, Ex-King of Delhi.

crusade. Unfortunately, it substituted British rule for Islamic, which had been refuted in India. The Moghul Empire had a cruel conversionary history in India for territorial purposes.<sup>60</sup> When it was ousted by the Maratha Army in 1737, a more tolerant religious environment followed. Thus, the Bengal Army's betrayal of the Indian people and its employer, the EIC, was regressive.

The EIC army ended the siege of Delhi in September 1857. Bahadur Shah was tried for murder and treason in January 1858. He was found guilty but not given capital punishment, the standard penalty for mutiny against the State. Instead he was exiled to Burma. Moghul rule in India officially concluded.

By June the Sepoy Revolt was over.<sup>61</sup> Yet the EIC did not oversee the future of India. Its role as agent of the British government diminished when Parliament passed the Government of India Act<sup>62</sup> in August. The Act granted the Crown full and direct control of India. All EIC property passed to the British Empire. It is surprising that the Company was made redundant at its military zenith. Its corporate existence, however, was not terminated immediately. Dissolution was in 1874 on New Year's Day.<sup>63</sup>

### iii) Annexation of Punjab

As mentioned above, the East India Company did not anticipate the enactment of The Government of India Act 1858. By the end of the Sepoy Revolt, the Company had regained command of its troops. The 1858 law transferred its armies and navies to the Crown. In a petition to Parliament, the EIC explained the significance of its past military contributions. It had, by "its own expense, and by the agency of [its] own civil and military servants, originally acquired for this country its magnificent empire in the East".<sup>64</sup> It is true that the EIC had gained access to territories. This was attributed to its military superiority and treaty making process, the latter oft through wielding intimidation to win agreement. The annexation of Punjab is one example.

The conquest of the province resulted from The First Anglo-Sikh War (1845–1846). The EIC provoked the battle. It amassed troops in 1845 near the Sutlej River frontier between EIC and Sikh territories. Sikh forces moved towards the Sutlej, and the EIC declared war. In February 1846, the Company army defeated Sikhs at Lahore, the capital of Punjab. It negotiated the Treaty of Lahore<sup>65</sup> and Articles of Agreement<sup>66</sup> to end the War. Months later, the Second Treaty of Lahore ("Treaty of Bhairawal")<sup>67</sup> made the young Sikh Maharajah a British ward. The Treaties were signed between the Honorable English East

<sup>60</sup> Particularly true of the reign of Aurangzeb (1658–1707).

<sup>61</sup> *Thanks To The Government And Army In India*. HC Deb 14 April 1859 vol 153 cc1729–65.

<sup>62</sup> An Act for the better Government of India (Government of India Act 1958), 21 & 22 Vict. c. 106.

<sup>63</sup> East India Stock Dividend Redemption Act 1873 (36 & 37 Vict c 17).

<sup>64</sup> The Petition of the East India Company to the two Houses of Parliament against the intended measure for depriving them of the Administration of India; originally acquired for this country its magnificent empire in the East.

<sup>65</sup> Treaty between the British Government and the State of Lahore–1846, Signed on the 9<sup>th</sup> day of March, 1846.

<sup>66</sup> ARTICLES OF AGREEMENT concluded between the BRITISH GOVERNMENT and the LAHORE DURBAR on 11 March 1846. (Hereafter First Lahore Treaty)

<sup>67</sup> ARTICLES OF AGREEMENT concluded between the BRITISH GOVERNMENT and the LAHORE DURBAR on 16 December 1846.

India Company and Maharajah Dhuleep Sing Bahadoor, and his children, heirs and successors.<sup>68</sup> The Maharajah of the Sikh Kingdom was a child of eight. As a minor he clearly did not have mental capacity to conclude a legal agreement. Neither should he been required to rely on his guardians (the Lahore Durbar)<sup>69</sup> to act as trustees on vital political issues. If the doctrine of clean hands had applied, the Treaties would not be recognized as enforceable contracts.

The *Imperial Gazetteer of India* summarized how the first peace treaty came about. “The remnants of the Sikh army and the rebel Sardars surrendered at Rawalpindi on March 14, and henceforth the entire Punjab became a province of British India. The formal annexation was proclaimed at Lahore on March 29, 1849, on which day terms were offered to, and accepted by, the young Maharaja Dalip Singh, who received an annuity of £ 50,000 a year and resigned for himself, his heirs, and his successors, all right, title, and claim to the sovereignty of the Punjab, or to any sovereign power whatever.”<sup>70</sup> The Treaty of Lahore also obliged Dhuleep to reimburse the EIC for war costs.

**Article 4.** The British Government having demanded from the Lahore State, as indemnification for the expenses of the war, in addition to the cession of territory described in Article 3, payment of one and half crore of Rupees, and the Lahore Government being unable to pay the whole of this sum at this time, or to give security satisfactory to the British Government for its eventual payment, the Maharajah cedes to the Honorable Company, in perpetual sovereignty, as equivalent for one crore of Rupees, all his forts, territories, rights and interests in the hill countries, which are situated between the Rivers Beas and Indus, including the Provinces of Cashmere and Hazarah.

**Article 5.** The Maharajah will pay to the British Government the sum of 60 lakhs of Rupees on or before the ratification of this Treaty.

Article 6<sup>71</sup> and 7 called for reorganization of the Lahore Army so that the number of soldiers was reduced. An addendum on March 11 to the Treaty<sup>72</sup> provided for British forces to be stationed in Lahore while this was done.<sup>73</sup> Again, all extra expense borne by

<sup>68</sup> First Lahore Treaty. (Hereafter Second Lahore Treaty)

<sup>69</sup> Bhaee Ram Sing, Rajah Lal Sing, Sirdar Tej Sing, Sirdar Chuttur Sing Attareewalla, Sirdar Runjore Sing Majeethia, Dewan Deena Nath and Fakeer Nooroodden.

<sup>70</sup> “Punjab”, *Imperial Gazetteer of India*, v. 20, 272 at 274.

<sup>71</sup> First Lahore Treaty, Article 6: The Maharajah engages to disband the mutinous troops of the Lahore Army, taking from them their arms—and His Highness agrees to reorganize the Regular or Aeen Regiments of Infantry, upon the system, and according to the Regulations as to pay and allowances, observed in the time of the late Maharajah Runjeet Sing. The Maharajah further engages to pay up all arrears to the soldiers that are discharged, under the provisions of this Article.

Article 7: The Regular Army of the Lahore State shall henceforth be limited to 25 Battalions of Infantry, consisting of 800 bayonets each with twelve thousand Cavalry—this number at no time to be exceeded without the concurrence of the British Government. Should it be necessary at any time—for any special cause—that this force should be increased, the cause shall be fully explained to the British Government, and when the special necessity shall have passed, the regular troops shall be again reduced to the standard specified in the former Clause of this Article.

<sup>72</sup> ARTICLES OF AGREEMENT concluded between the BRITISH GOVERNMENT and the LAHORE DURBAR on 11 March 1846.

<sup>73</sup> *Ibid.* Article 1: The British Government shall leave at Lahore, till the close of the current year, AD 1846, such force as shall seem to the Governor-General adequate for the purpose of protecting the person of the Maharajah and the inhabitants of the City of Lahore, during the

them was to be repaid.<sup>74</sup> The British stipulated that they would not stay beyond the end of the current year. However, the Lahore Darbar asked them to continue until the Maharajah reached the age of sixteen. Accordingly, the second Lahore Treaty was signed on December 16, 1846.

The terms of the Treaty gave the EIC *de facto* rule of Punjab. Article 2 instructed the Governor-General of the EIC to appoint a British officer to remain at Lahore. The officer had “full authority to direct and control all matters in every Department of the State.” The Treaty also extended the military visibility of the British with provisions to guard the Maharajah and State.

**Article 7.** A British Force of such strength and numbers and in such positions as the Governor-General may think fit, shall remain at Lahore for the protection of the Maharajah and the preservation of the peace of the country.

**Article 8.** The Governor-General shall be at liberty to occupy with British soldiers any fort or military post in the Lahore territories, the occupation of which may be deemed necessary by the British Government, for the security of the capital or for maintaining the peace of the country.

Article 9 required the state to fund the British presence at an annual rate of 22 lakhs.<sup>75</sup> Article 11, is perhaps, the most problematic clause of the Treaty. It explicitly said that the Agreement would cease when the Maharajah attained the full age of sixteen years, or earlier if the Governor-General decided.<sup>76</sup> There is no geographic condition in the clause that mandated Dulleep Sing to be present in India. Dulleep Sing moved to England when he was eleven years old and did not return to India. The reasons why are not documented. It is unclear whether the EIC sent the boy away or if the boy was sent by his mother, and whether the boy was prevented from returning by the British. In any case, the Second Treaty

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reorganization of the Sikh Army, in accordance with the provisions of Article 6 of the Treaty of Lahore. That force to be withdrawn at any convenient time before the expiration of the year, if the object to be fulfilled shall, in the opinion of the Durbar, have been attained—but the force shall not be detained at Lahore beyond the expiration of the current year.

<sup>74</sup> *Ibid.* Article 2: The Lahore Government agrees that the force left at Lahore for the purpose specified in the foregoing Article shall be placed in full possession of the Fort and the City of Lahore, and that the Lahore troops shall be removed from within the City. The Lahore Government engages to furnish convenient quarters for the officers and men of the said force, and to pay to the British Government all the extra expenses, in regard to the said force, which may be incurred by the British Government, in consequence of the troops being employed away from their own Cantonments and in a Foreign Territory.

<sup>75</sup> Second Lahore Treaty, Article 9: The Lahore State shall pay to the British Government twenty-two lakhs of new Nanuck Shahee Rupees of full tale and weight per annum for the maintenance of this force, and to meet the expenses incurred by the British Government. Such sum to be paid by two instalments, or 13, 20, 000 in May or June, and 8, 80, 000 in November or December of each year.

<sup>76</sup> *Ibid.* Article 16. The provisions of this Engagement shall have effect during the minority of His Highness Maharajah Dulleep Sing, and shall cease and terminate on His Highness attaining the full age of sixteen years or, on the 4th September of the year 1854, but it shall be competent to the Governor-General to cause the arrangement to cease at any period prior to the coming of age of His Highness, at which the Governor-General and the Lahore Durbar may be satisfied that the interposition of the British Government is no longer necessary for maintaining the Government of His Highness the Maharajah.

of Lahore did not lapse—although it should have. A void contract retained legal validity and remained in force. The outcome was that the Sikh monarchy ended, while Punjab stayed under British control till the Partition of India transpired in 1947.

### **Conclusion**

The East India Company was a Crown chartered trading company. It was owned privately but had a mandate to benefit the British State commercially and politically. First and foremost, the EIC was an agent of the Crown.

It was a multinational corporation that pursued investment opportunities as well as territorial power. EIC employees based in India sought commercial profits for themselves, the Crown, and East India House; while they acquired Indian territory aggressively on behalf of the Empire.

To achieve all of these ends, the EIC's corporate conduct was inconsistent. Sometimes, the Company complied with ethical practice in safety and financial matters. At other times it readily engaged in economic theft and bribes, or breached civil liberties and human rights. The concept of corporate social responsibility was secondary to its interests.

The EIC displayed similar inertia to corporate governance issues. The East India House in London cared little about disciplining corrupt directors and shareholders. It was the British Government that had a proactive approach by attempting structural reorganizations through Charter amendments. That the State took charge emphasizes the EIC was, essentially, a State corporation. At the end, it was the State and not private owners that decided to wind up the Company.