**THE INDIAN HIGH COURTS ACT, 1861**

***INTRODUCTION:***

The Indian High Courts Act of 1861was an act of the Parliament of the United Kingdom to authorize the Crown to create High Courts in the Indian colony. **Queen Victoria created the High Courts in Calcutta, Madras, and Bombay by**[**Letters Patent**](https://en.wikipedia.org/wiki/Letters_Patent)**in 1862**. These High Courts would become the precursors to the High Courts in the modern day India, Pakistan, and Bangladesh. The Act was passed after the [First War of Independence of 1857](https://en.wikipedia.org/w/index.php?title=First_War_of_Independence_of_1857&action=edit&redlink=1) and consolidated the parallel legal systems of the Crown and the [East India Company](https://en.wikipedia.org/wiki/East_India_Company).

By Indian High Courts Act 1861, the Supreme & Sadar Courts were amalgamated. The ‘Indian High Court Act’ of 1861, vested in Queen of England to issue letters patent to erect and establish High Courts of Calcutta, Madras and Bombay.

*It is worth note that Indian High Courts Act, 1861 did not by itself create and establish the High Courts in India. The objective of this Act was to effect a fusion of the Supreme Courts and the Sadar Adalats in the three Presidencies and this was to be consummated by issuing Letter Patent. The jurisdiction and powers exercised by these courts was to be assumed by the High Courts.*

***FEATURES OF THE ACT:***

* The Charter of High Court of Calcutta was issued on 14th May, 1862 and Madras and Bombay was issued on June 26, 1862.
* So, the Calcutta High Court has the distinction of being the first High Court and one of the three Chartered High Courts to be set up in India, along with the High Courts of Bombay, Madras.
* High Court at Calcutta which was formerly known as High Court of Judicature at Fort William was established on July 1, 1862. Sir Barnes Peacock was its first Chief Justice.
* On 2nd February, 1863, Justice Sumboo Nath Pandit was the first Indian to assume office as a Judge of the Calcutta High Court.
* The Bombay High Court was inaugurated on 14th August, 1862.
* Indian High Court Act 1861 also gave power to set up other High Courts like the High Courts of the Presidency Towns with similar powers.
* Under this power, a High Court was established in 1866 at High Court of Judicature for the North-Western Provinces at Agra on 17 March 1866 by the Indian High Courts Act of 1861 replacing the Sadr Diwani Adalat.
* Sir Walter Morgan, Barrister-at-Law was appointed the first Chief Justice of the High Court of North-Western Provinces. However it was shifted to Allahabad in 1869 and the name was correspondingly changed to the High Court of Judicature at Allahabad from 11 March 1919.

***COMPOSITION:***

The Indian High Courts Act 1861 had also provided for the composition of the High Court.

* Each High Court was to consist of a Chief Justice and NOT more than 15 regular judges.
* The chief Justice and minimum of one third regular judges had to be barristers and minimum one third regular judges were to be from the “covenanted Civil Service”.
* **All Judges were to be in the office on the *pleasure of the Crown.***

***JURISDICTION:***

The High Courts had an Original as well as an Appellate Jurisdiction the former derived from the Supreme Court, and the latter from the Saddar Diwani and Saddar Foujdari Adalats, which were merged in the High Court.

**Each High Court could consist of a chief justice and up to 15 judges. Under Section 3 of the Act, judges could be selected from barristers (with 5 years of experience), civil servants (with 10 years of experience including 3 years as a zillah judge), judges of small cause courts or sudder ameen (with 5 years of experience), or pleaders of lander courts or High Courts (with 5 years of experience).**

The High Court of a State was the highest court of the State and all other courts of the State work under it. Normally there is one High Court in every State but there can be only one High Court for two or more States as well, according to the constitution. There is one High Court at Chandigarh for Punjab, Haryana and Union Territory of Chandigarh. Similarly there is one High Court at Guwahati which serves Assam, Arunachal Pradesh, Mizoram and Nagaland.

***QUALIFICATIONS FOR THE JUDGES (present):***

**(a) He should be a citizen of India.**

**(b) He should have been (I) a judge for 10 years of Subordinate court under the Judicial Service of the State or (ii) an Advocate for 10 years in a High Courts in India**

***TENURE OF JUDGES:***

**Originally the age of the retirement of the judges of the High Courts was fixed at 60 but it was raised to 62 in 1963 according to the 15th amendment of the Constitution.**

***REMOVAL OF THE JUDGES:***

A judge may leave his office by resigning. He will send his letter of resignation to the President. His office would be considered to have been vacated if he is appointed as a judge of the Supreme Court or is transferred to some other High Court. A judge of a High Court may also be removed like a judge of the Supreme Court. A judge of High Court may be removed by the President if the Parliament passes a motion against him by an absolute majority and 2/3rd majority of the members present and voting, both the Houses sitting separately.

***POWERS AND FUNCTIONS:***

**Original Jurisdiction:**

The original jurisdiction of the High Court was restricted.

(a) Every High Court under Article 226 is empowered to issue writs, orders, directions including writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo-warranto and Certiorari or any of them to any person or authority with in its territory for the enforcement of the Fundamental Rights and for any other purpose.

(b) The original jurisdiction of High Court extends to matters of admiralty, matrimonial, contempt of court and cases ordered to be transferred to High Court by lower court.

(c) The High Courts of Mumbai, Kolkata and Chennai have original jurisdiction on hearing straightway cases involving the Christians and Parsies.

(d) The High Courts of Mumbai, Kolkata and Chennai exercise original civil jurisdiction when the amount involved is more than two thousand rupees.

**Appellate Jurisdiction:**

The appellate jurisdiction of the High Courts extended so:

(a) The High Court can hear appeals in civil cases if the amount involved in the case is at least Rs. 5000.

(b) The High Court in criminal cases hears the appeal in which the accused has been sentenced to four years imprisonment by the Sessions Judge.

(c) The death sentence awarded by Sessions Judge is subject to approval by the High Court.

(d) The High Court hear the cases involving interpretation of the Constitution or Law.

(e) The High Court hears the cases on income tax, sales tax etc.