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Indian Penal code and Continuation of British Legacy

The birth of independent India was immediately followed by a need for an adequate mechanism of governance, indigenous in its nature and yet acceptable and sensitive to the needs and customs of the large multitude of castes, classes, religious and linguistic communities it was trying to tie up together. Unsurprisingly then, for the new government, continuance of the judicial system put together by the British was a compromise formula that worked best then. Steeped in European culture and practices, a number of these legal codes saw themselves being adopted in Indian society and being in existence long after the colonial powers had left.

India opened up its arms to the British as trading partners in the 17th century. The trade between both the countries was highly encouraged by the locals and so British East India Company was given all the support that it needed to set up its first factory on the banks of Hubli River in Bengal. The main intention of the company to enter this colony was to earn huge profits by selling Indian commodities such as spices, cotton, silk etc. in Britain. Till now there interest was in gaining a monopoly over trade in India but soon after the industrial revolution the British parliament started showing more interest and wanted a greater control over the company's earnings, so the Charter Act of 1813 was passed by it. Thus came in the regime of free trade which completely changed the characteristics of Indian colony through a dual strategy: Due to Charter Act there were almost no tariff barriers and so Indian market was opened for the cheap machine made goods produced in Britain; Importing raw material from India also became easier for it. But not just that, India also proved to be a great employment provider for the British upper middle class, whose remittances (that they sent back home) contributed to their home country's balance of payment. But then the crown found this colony so lucrative that they wanted to totally control it. Control over it would also put them at a very high position on the world power structure in terms of military and logistics. Thus in the year 1858 started the crown rule in the Indian subcontinent.

Britishers ruled India for almost 200 years. In this time frame they brought about a lot of changes in the country, which can be seen even today. These are the legacies of British colonial rule in the 21st century India. They can be broadly divided into various categories: Economic, Social, Political, Legal, and Regional.

Legal Impact of British Rule in India

The British rule introduced the common civil and criminal laws and a uniform legal system throughout the length and breadth of the country. Also the British feminists found a lot of interest in the status of women in this country and worked extensively to improve the condition of women. However, the British man who had all the power did not really want to take any step that could go against them and the crowd would find a reason to unite and mobilise against the British administration. However, if not complete changes, they started the revolution in the system whose impacts can be seen even today as some of the laws remain unchanged till date. One of the best creation of britishers is INDIAN PENAL CODE With the celebration of independence day every year, We look back at the way that how British colonial rule continues to influence our laws and legal system. Still, we are judged by British legal system and we can also say that the British Legacy is still continuing even though we are going to celebrate 75th Independence day this year, but still we cannot say that we are fully independent with the Aspects of Laws and Legal system. On 1st January 1862, the britishers enacted the Indian Penal Code, and with two decades most of the Indian Laws was codified. Ironically, England still awaits a criminal code, and the vast majority of English laws remain uncodified in forms of statute or common law.

Under the colonial rule of the British everything changed, In 1833 British government has appointed the Indian Law commission that would study the existing laws in India and basic principle of the current laws . This commission has submitted the report and given their suggestions and changes which are require to codify laws in India. One of the most important contribution of Indian Law commission was the formation of the Indian penal code this was submitted by Lord Macaulay in 1837 which afterwards became a law in year 1860 after almost 30 years of heavy deliberation. At this particular time they wrote Code of Criminal Procedure ,1861. Most procedural laws came after this code. As the Lord Thomas Babington Macaulay was a great teacher and writer And supported his whole family by writing and teaching and by obtaining a minor government post. Macaulay's, entire-aspects, society's, even till date there are very few amendments that has been added to it, reason being it was framed by considering every possible aspect of the society. And eventually he has

drafted the IPC in such a brilliant manner that no one can question his writing, Even until now there are very less changes are made in accordance to the IPC . In 1860 when IPC came into being, it was highly criticised, people wasn't much aware about their rights. They were totally comfortable in their zones and they didn't want anyone to interfere in between their style of living. But hats off to Britishers who took an initiative against the odds and brought a wonderful code for the betterment of society and to decrease the crime rate. The basis of every law is justice, equity and good conscience, similarly IPC is also based upon these 3 principles. IPC was written in order to prevent the crime, to punish the culprits and to remove the unacceptable, inhuman cultures prevailing in the society such as sati, bride burning, abolishing untouchables or infringing on human rights these laws thus uplifted the underprivileged and provide a chance of justice for those who were trampled upon. Owing to the Indian Penal Code, other legislations punishing crimes mentioned above were also brought into force. The amendments taken afterword are so undervalued that they are not even matching the criteria of writing of Lord Macaulay. Britishers from the inception were very broad minded and had sensibility. The major reason for them having such a powerful vision was that they weren't secular at all. Their dimensions were wide, and equal for everyone. But India being a secular country was always confined in 4 walls of its religion. Bigamy for Hindu's was punishable but for Muslims it was allowed. It was very difficult to bring uniformity and even a change in their respective spheres.

The people of India has always preferred their custom, religion and norms over any other law. Which leads to increase in crime rate, such as dowry, sati, untouchability etc .

British laws are made uniformly, it doesn't have a bit of any favouritism , any religion etc . This is the reason why they are still so prevalent in India, also they are still coming up with the upcoming challenges and changes in our society. IPC had amended around 77 times but still it is not matching the writings of Lord Macaulay, we can take the example of 2013 Amendment Under IPC with adding of Acid attack Sections -326A, 326 . These sections are not written by Lord Macaulay that's why they are having inherence difficulty. The definition are so confusing and the language use under this sections are so unfitted in the definitions of this sections. This is the reason why IPC is not been changed totally no-matter some changes are definitely taken place as per the need of the society, but those changes are not so adequate that they can be appreciated by the whole society while knowing that we have to follow it . As the matter of fact the British laws are so well organised and well codified, that's why we are still following those rules. We can also say that no matter India has become independent country but still we are continuing the British legacy by following their laws .Though 1200

archaic laws were scrapped in bulk But still India is following many obsolete laws that have been prevalent from the time of British colonial rule.

The roots of legality However can be found In European culture which for a long Time Has influenced India's ways and thoughts. In the past lots of legislations are made by the British Government to run the country as per their convenience. The main objectives behind all such legislations were exploit the resources of India and to stop the rebellions from protesting against such open loot of Resources, these laws are made as per the requirement of that particular time by the British Government. But still we are following it And we can relate the relevancy of those laws in present scenario. The laws made by British Government are so well defined and covers whole aspects of the society that is the reason why they are still prevailing and that's why very less number of changes taken place since many years. Because these laws are so beautifully drafted and made as per the need of the society. Not only IPC but many other laws are also their which are following now also from the past British Era. The Indian Penal Code in all its glory is the document we can say that this document is made suited for India by the British and Thanks to Lord Macaulay. Today we still follow the same rules and laws, with the different amendments taken place as per the changes in the society ,but those amendments are not in the same path that they will be sharing the same path with the laws made by British Government . But this text drafted by Lord Macaulay has been a backbone for delivering Justice to those who has violated. In India Criminal Law aims to punish a guilty and build a society that is free from clutches of evil, getting rid of them one by one . Even though society does not practice retributive justice, justice today is not only for the victim but for society at large. Most major Indian laws are legacies of the British, the result of great codification movement that failed to make much headway in the colonial metropolis and therefore chaos India's as laboratory. Apart from the Indian penal code or IPC (1860), there is an Indian Evidence Act (1872), The Indian contract Act (1872) , The Transfer of property Act (1882) , The General Clause Act (1897) ,The code of civil procedure (1908) , and until its overhaul in 1973 , The code of criminal procedure (1898) .Crime , Contract ,Property , and legal procedure – the bastions of any legal system , have come down to us , in 2016 largely preserved since the time of their inception . In some respects, this is unsurprising. Many of these laws do not have an overtly political flavour. The rule against admitting hearsay evidence, for instance, is a result of simple good sense and a keen awareness of human nature, independent of the relationship between the ruler and the ruled. The same goes for the laws of property and contract. It is, however, in the field of criminal law, unmistakably coloured by the brush of colonial morality and colonial governmentally,

that the absence of change in all these years has been a matter of surprise. The roots of the legality, however, can be found in European culture which for a long time had influenced Indian ways and thoughts.



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