

Unit 4: Criminal Law in India: (DAY ONE)

(A) Concept of Criminal Law with Reference to India (DAY ONE)

Concept of Criminal Law with Reference to India

- 1 Meaning and Difference between Law and Laws
- 2 Types of Laws
- 3 Meaning of Criminal Law
- 4 How Criminal Law is Different from other Laws
- 5 Historical Development of Criminal Law in India
 - 5.1 Ancient Period
 - 5.1.1 Evolution of Law During Ancient Periods
 - 5.1.2 Buddhist Law
 - 5.1.3 Role of Ashoka
 - 5.2 Mughal Period
 - 5.2.1 Introduction of Islamic Laws
 - 5.2.2 Conflict between native people and Islamic Laws (imposition)
 - 5.2.3 Injustice in the process of justice (evidence by Women, cruel punishment, no relationship between crime and punishment)
 - 5.3 British India
 - 5.3.1 Introduction of Hindu Laws (because of demand of Personal Laws, and Islamic Law were already existing)
 - 5.3.2 Control and Curtail over Islamic Laws (Because it was imposed on non Islamic, cruel punishment, and no relationship between crime and punishment) (corruption in the legal system, misinterpretation of law by Muslim Maulavi and other)
 - 5.4 Introduction of British Law in India
 - 5.4.1 Establishment of East Indian Company
 - 5.4.2 Charters and Right to enact the law by the East Indian Company by that must accordance with the British Laws in this way the East India Company introduces the British Laws in India
 - 5.4.3 First time India witness the equality before law and equal protection of law
 - 5.4.4 Contribution of Lord Thomas Babington Macaulay (1800–1859)
 - 5.4.4.1 Brief Bio of Lord Macaulay:
 - 5.4.4.2 Lord Thomas Babington Macaulay (1800–1859) was a British politician and historian who served on the Supreme Council of India (1834–1838). Lord Macaulay (Thomas Babington Macaulay) during his office in India from 1834 to 1838, acting as the Law Member of the Governor-General's Council. He is primarily known for his influential role in establishing the English-language education system and for drafting the legal codes that formed the foundation of the modern Indian legal system.
 - 5.4.4.3 He fundamentally reshaped British India by advocating for Western education through his 1835 "Minute on Indian Education" and drafting the Indian Penal Code (IPC), establishing English as the language of instruction and governance.

5.4.4.4 Key Aspects of Macaulay's Role in India:

- 5.4.4.4.1 **Education Policy (The 1835 Minute):** Macaulay argued that Oriental learning was inferior to Western knowledge, famously stating that "a single shelf of a good European library was worth the whole native literature of India and Arabia". He promoted the "Anglicist" view, recommending English as the medium of instruction for higher education to create a class of Indians, "Indian in blood and colour, but English in taste, in opinions, in morals, and in intellect".
- 5.4.4.4.2 **Legal Reforms:** He was appointed as the first Law Member of the Governor-General's Council. He chaired the Law Commission that drafted the Indian Penal Code (1860), which became the backbone of the Indian criminal justice system.
- 5.4.4.4.3 **Administrative Impact:** Macaulay played a key role in transitioning India towards a British administrative model, emphasizing modern, liberal, and westernized education over traditional systems.
- 5.4.4.4.4 **Language and Culture:** His policies led to the marginalization of traditional Pathshalas and Madrasas, prioritizing English, which some argue exacerbated social divisions while others suggest it provided a unifying language for the Indian elite.
- 5.4.4.4.5 **Macaulay left India in 1837, having laid the foundational policies for education and law that deeply impacted Indian society and administration.**
- 5.4.4.5 Hence, Lord Macaulay was head of the First Law Commission and modernized the entire legal system by reshaping it.
- 5.4.4.6 Hence, Lord Macaulay Replaced all Religious and Personal laws for Criminal Justice
- 5.4.4.7 Now everyone one become equal for this criminal matters
- 5.4.4.8 Personal laws were limited to the Marriage, Divorce, Family Property, Inherent, Succession, or such matters only
- 5.4.4.9 **Key Contribution of Lord Macaulay for India**
 - 5.4.4.9.1 **The Indian Penal Code (IPC)** is the principal criminal code of India, enacted in 1860 and in force since January 1, 1862. The draft was prepared by the First Law Commission chaired by Thomas Babington Macaulay. It covers substantive criminal law, defining crimes and punishments across 23 chapters and 511 sections. (Note: the The Indian Penal Code (IPC) is renamed as Bharatiya Nyaya Sanhita (BNS), 2023, which came into effect on July 1, 2024.)
 - 5.4.4.9.2 **Indian Evidence Act** (Contextual Influence): While the Indian Evidence Act, 1872, was technically drafted later by Sir James F. Stephen, it was part of the systematic codification project initiated by Macaulay.
 - 5.4.4.9.3 **Equality Before the Law, and Equal Protection of law:** Legal Equality Principle: Macaulay aimed to create a uniform, clear, and comprehensive framework for justice. He is credited with introducing the principle of equality before the law, enabling Indian judges to try British citizens.
 - 5.4.4.9.4 **Uniformity in Law:** He aimed to replace the inconsistent mix of English procedural law, local customs, and religious codes with a single, comprehensive legal framework.
 - 5.4.4.9.5 **Equal educational rights to everyone**
 - 5.4.4.9.6 Dear students please find the Recent Name change of three Criminal Laws

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