

## A STUDY ON THE MAJOR CRIMINALS ACT 1860

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### ABSTRACT

This paper deals with the Major Criminals Act 1860 (Indian Penal Code 1860). Major Criminals Act is nothing but the Indian Penal Code. which was created and enacted by the British East India Company in 1860 which came into force in 1862. Indian Penal Code is the Major Criminal Code in India. It is a combined code for the entire Criminal laws in India. It was drafted by the first law commission of India which was established in 1834. It was created under the chairmanship of lord Macaulay. After the enactment of the code it is been amended for several times but still it stands and provides justice for the people in india and punishes the wrong doers with punishments. The main aim of this study is to know about the major criminals act in India and the role of it the society. Each and every thing that were we see there is law in it, which governs us in our daily life. The main objective of this act was to generally penalise the code in India. The Indian Penal code was enacted for controlling the crimes that have been taking place in India. It was hard for the lawmakers to necessary action against the criminals with a indefinite law which was not been codified. This created a vast need for the legislatures to create a codified law to govern the crimes in the country. Hence there can the need for a codified law which can cover all the criminal laws in one whole code and to provide punishments for those criminal offences.

**Keywords:** Indian Penal Code, Criminal Law, Combined code, Macaulay, Combined code

## INTRODUCTION

The Indian Penal Code consists of 511 sections divided into twenty three chapters according to its necessity. The indian penal code starts with a introduction, explanations, punishments and a vast range of crimes. The highest punishment awarded under the ipc is Capital Punishment or Death Sentence, which is nothing but hanging a person till his death<sup>1</sup>. There are three main laws in India they are the Indian Penal Code 1860, the Code of Criminal Procedure 1973 and the Indian Evidence Act 1872<sup>2</sup>. There are around thousands of minor law in India. A crime is something more than an act, more disobedience to law. Both forbidden by law and revolting to moral sentiment of the society. Punishment is form of social control, where it is awarded for the wrong doers in the society. In India we follow reformatory theory where in certain cases we follow deterrent theory, reformatory theory is the way of reforming the person and make him feel of his previous act. According to this theory punishment should be awarded to reform a person by isolating him from the society<sup>3</sup>. The object of the principle should be bringing a moral reformation to the offender. According to this theory no one is born criminal, they are forced to do such act of crime only on the circumstance of the society. The indian penal code shall applicable for the entire indian nation except for the region of jammu and kashmir in the north. Each and every citizen of india shall be governed and punishable under the Indian Penal code. any crime that takes place in the territory shall be governed and punished by the indian penal code only<sup>4</sup>. The main aim of creating the Indian Penal Code was that there was big necessity for a codified law to govern all the laws and the britishers wanted to regulate all the criminal law into one codified law through which they can easily maintain peace around the State. One of the main Aim of the study is to know about the crimes act in India and the punishments for the crimes under the crimes act. To analyse the major criminal Act in India is To know about the necessity of creating major criminals act, To study about the punishments and crimes under the major criminals' act.

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<sup>1</sup>(Sanwal)

<sup>2</sup>(Website)

<sup>3</sup>(Website)

<sup>4</sup>(Website)

## **METHODOLOGY**

This study is doctrinal in nature. This study is based on the secondary data only. This study is limited to Major Criminals Act 1860 of India only.

## **PUNISHMENTS UNDER THE INDIAN PENAL CODE**

Punishment is form of social control, where it is awarded for the wrong doers in the society. The highest punishment awarded under the ipc is Capital Punishment or Death Sentence. Among the theories of punishments in India we follow reformatory theory where in certain cases we follow deterrent theory depending upon the importance of the cases<sup>5</sup>.

### **Kinds of Punishments**

Punishment can be classified into six types and they are as followed

- 1)Death or capital punishment
- 2)Life imprisonment
- 3)Fine
- 4)Imprisonment with two description rigorous and simple
- 5)Forfeiture of property
- 6)Solitary confinement

### **Death Sentence**

Section 354 of the Criminal procedure code says that he be hanged by neck till he is deed. Generally capital punishment is given only for rarest of rare cases and only on national interest. Section 54 of the Indian penal code states that if the government consent without accused consent then change the punishment<sup>6</sup>. Death sentence can be awarded only on the following grounds:

- 1) Section 121 for waging war against the State
- 2) Section 132 abetting mutiny actually committed

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<sup>5</sup>(Website )

<sup>6</sup>(THE INDIAN PENAL CODE 2013)

- 3) Section 194 states about giving fabricated false evidence due to an innocent person has suffers death
- 4) Section 302 murder
- 5) Section 304 death related offences
- 6) Section 305 abetment of suicide of insane or innocent person
- 7) Section 396 dacoity with murder
- 8) Section 307 attempt to murder by person under sentence of imprisonment for life if hurt is caused

These are the cases where the death sentence can be awarded under the India Penal Code.

### **Life Imprisonment**

Section 55 of the act says about life imprisonment, according to this section imprisonment for not less than 14 years. According to the Jail Manuals Act the period for life imprisonment is 20 years only for calculating purposes.

Imprisonment is of two types simple and rigorous

Simple imprisonment is just a normal imprisonment awarded to the people. The offender is merely imprisoned and he does not want to do the work of hard labour.

Rigorous imprisonment is mentioned under Section 60 of the act, it states that the rigorous imprisonment involves hard labour work such as digging earth, drawing water, cut firewood, grain corn<sup>7</sup>.

### **Solitary confinement**

The section 73 of the Indian Penal Code state about solitary confinement. Solitary confinement is nothing but isolating a specific person in a lonely dark place for his crime. Since giving solitary punishment for a very long time continuously can affect the health of the person it is given some criterias for awarding the punishment. According to the section solitary confinement should not be awarded more than 7 days in a month.

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<sup>7</sup> (THE INDIAN PENAL CODE 2013)

## **MURDER AND PUNISHMENT FOR MURDER**

The term Murder is derived from the term morth which means secret killing. Murder is a more serious offence than the culpable homicides. Section 300 of the Indian Penal Code deals with the term Murder. Section 302 of the Indian Penal Code deals with the murder and punishment for Murder. The punishment for murder is death sentence or life imprisonment and shall be liable for fine. The act must be caused with the intention causing death to the person and must have caused injury to the person then it is punishable under this section<sup>8</sup>.

## **RAPE AND PUNISHMENT FOR RAPE**

Rape is one of the foremost major crime against the women in the Indian society. According to the National crime record Bureau the crime rate has been increased tremendously ever half an hour a women is been raped in India. The number of cases which is been reported is only the half of the amount of crimes and incidents against the women, as most of them consider it as problem and is not been reported itself. Rape is nothing but the intercourse with a woman against her will. The crime against women is been increasing in the past few years. There are certain circumstance mentioned they are

- 1) Against her will
- 2) Without her consent
- 3) With her consent were the consent is obtained but putting her life to a threat
- 4) With her consent were the consent is obtained but putting the person she love in threat of life
- 5) With her consent were the consent is obtained by making her believe that he is her husband of her
- 6) With her consent were the consent is obtained when she is mentally ill or when she is intoxicated.
- 7) With or without her consent when she is under the age of majority
- 8) When intercourse is done by a husband where the girl is below the age of majority is not considered as rape.

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<sup>8</sup>(Gandhi and India 2006)

The punishment for rape is mentioned under the section 376 of the Indian penal code where the punishment should be not less than 7 years of imprisonment which can be extended to life imprisonment and shall be liable for a fine. Section 375, 376,376A,376B,376C,376D. In certain cases even death sentence can also be given for the offender, it depends upon the situation and nature of crime. In article report it is stated that the rape crimes committed are mostly done by a person like friends and family of that girl<sup>9</sup>.

### **ADULTERY**

Adultery is nothing but an intercourse with the wife of another man without the consent of her husband. Section 497 deals with adultery and punishment for it. A woman cannot be punished for adultery in Indian law<sup>10</sup>. Whoever has intercourse with the wife of someone else without the permission of the husband will be punishable under 497. If the spouse has proven that his or spouse has committed adultery then she can apply for divorce showing this as cause. Adultery is considered as one of the main reasons for divorce between partners. Only men are punishable for adultery women are nowhere punishable under this law<sup>11</sup>.

### **KIDNAPPING**

The term kidnapping derived from the word kid and napping which means stealing the kids. Section 359 to 369 of the Indian Penal Code defines kidnapping and punishment for kidnapping. Kidnapping is of two types one is kidnapping within India and the other is lawful guardianship. Abduction means carrying away a person by fraud or force<sup>12</sup>. Section 362 of the Indian Penal Code states about Abduction. In UK the term kidnapping is for both minor and adult. But in India we have a separate section for adults that is abduction, for minor it's kidnapping. Abduction is nothing but carrying away the person without their consent or by force. Section 363 provides punishment for kidnapping, for a period which may extend to 7 years and eligible for fine. Section 377 of the Indian Penal Code says about unnatural offences, according to it who ever

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<sup>9</sup> (Misra 1983)

<sup>10</sup> (Should adultery be a crime?)

<sup>11</sup> (Biswas 2014)

<sup>12</sup> (Taxman and Pattavina 2013)

has a intercourse against the order of nature shall be punishable with life imprisonment or ten years and shall be liable for fine<sup>13</sup>.

### **DEFAMATION**

Section 499- 502 of the indian penal code deals with defamation. Defamation is the way of defaming a person's reputation by conveying a wrongful statement or a statement which is of defamatory in nature. Section 500 deals with the punishment for a period of two years and a fine amount. This section is applicable if someone uses any defamatory term or statement against someone else with the intention of lowering his reputation. In india defamation is both a civil and criminal wrong, in case of civil defamation they can claim for compensation and in case of criminal defamation a punishment for a period of about two years and eligible for fine. Civil defamation is governed by Law of Torts and criminal defamation is governed by Indian Penal Code.

### **CONCLUSION**

The major criminals act is necessary for the Indian nation as the crimes rate in India is been increased day by day the needs and necessity of the Act is essential. The need for a codified law is necessary in the present society, to govern the people and to safeguard the people in the society. It's been around 160 years after the enactment of the Indian Penal Code after the enactment it has been amended for several times for various causes, but still its standing still and provides justice to the people and governs them for all the wrong doers in this society and balances the social justice. The Indian Penal code make a Major role in the Indian constitution and in the criminal law in India. The Indian Penal Code deals with the laws for all the religions and caste providing peace around the State. The main aim of creating the Indian Penal Code was that there was big necessity for a codified law to govern all the laws and the britishers wanted to regulate all the criminal law into one codified law through which they can easily maintain peace around the State. After the implementation of the Crimes Act the number of crime rates have been reduced. The Indian Penal Code was enacted and implemented by the chairmanship of lord Macaulay during the rule of the British East India Company. Even though the law has been

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<sup>13</sup> ([Website](#))

enacted around one sixty years ago it still provides and covers all the crimes that is happen in our society even today, it provides punishment to the wrong doers and sustains peace in the society.

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