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Development of criminal law in India- to what extent it reached its fairness in the modern society

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Abstract:

The origin of law system and its evolution in india and its development upto present criminal laws in india, the hierarchy of court systems and a comparative study on the laws on post independence and current law status in india concluding the inefficiency on pre- existing laws and resulting in continual amendments which paves way for collision between the society and the government and raising questions to hypothesis which states that there is development in present criminal law in india. the overall study of the evolution of criminal law and the establishment of constitution and the religious laws which acted as precedent in today's constitution the main objective of the research is to find out whether criminal laws are efficiently implemented and also thereby concluding the concepts of reviewing the constitution once in every seventy years which thereby resulting in proper functioning of government the legislating system is also elongated with its previous British ruling in India .

Keywords: Criminal Laws, India, Acts, British, Court Systems.

INTRODUCTION:

The origin of law system in india evolved from the early vedic period and it had reached its paramount efficiency in today's law system and especially in criminal law ,the criminal laws have also evolved gradually according the change in society so as its punishments . the cause for the conversion rely upon the enormous progression in technology and development of human nature and behavior. Since the early civilians were not engaged in various form of actions or work as of today therefore the types of crimes which occurred were more or less similar in nature.The laws which binded the early societies and tribes was in the form of customs and practices of different religion . the sources for vedic system of law was SRUTI,SMRITI and and the administration of early society and tribes were legislated and formulated under court system to duly protect the justice which is known as Dharma in later periods THE ADMINISTRATION OF JUSTICE IS THE (KINGS) WHO RULED THE RESPECTIVE TERRITORIES their main objective is to protect the dharma of his subjects . During initial period the court system had been constructed into two hierarchy levels . The king's court is considered to be the highest and takes care of civil and criminal matters which are of utmost concern.and the king's court is the highest court of appeal and the sub consistency court is the chief justice court where the petty cases of both civil and criminal cases where looked after. The sruti consisted of four vedas namely rigveda,yajurveda,samaveda,atharveda .the smriti is generally know as(what is being heard from the GODS and been remembered by the rishis and munis who are known to be the Hindu sages)some of the prominent smritis were manu smriti, yagnalvakiya smriti, narada smriti. After a great analysis of various literatures under origin of indian penal code and its development, the Author of this article have few criticism which are in concern of the modern society (THEY ARE AS FOLLOWS) first and fore most we have to mind that INDIA is a democratic country after independence which is from 26th January 1950 the country's society its behavior and also the laws which is been practiced is dividend into two Aphases of INDIAN legal history which are constrained between pre independence and post independence. Before the independence of india from britishers the country was been ruled, stipulated by various outcast and the laws were also implemented based on their own customs and religion. To find out the evolution criminals in india.

Objectives:

To find out the importance and THE HUMONGOUS CHANGE IN Indian LEGAL SYSTEM is after the establishment of east india company at india in 1600A.D by the British crown who formulated a systematic law systems in regard to legislation, statutory laws and the judiciary body . though there were a huge detriments and agony were faced my home civilians during genesis later the law system initiated by the british protected the justice and punished the CRIMINALS AND CONVICTS based on MONARCHY RULE UNDER BRITISH CROWN and that is one of the reason why there were no many amendments under criminal procedure code and penal code. (IN SIMPLE UNDERSTANDING OF MONARCHY RULE) It was that in INSTANCE if the accused person is been found guilty of the crime which is been commenced or if the court proves that the person have committed a crime. HE/SHE WILL BE PUNISHED WITH MORE OF PHYSICAL OR CAPITAL PUNISHMENTS RATHER THAN MONITARY COMPENSATIONS OR SIMPLE IMPRISONMENT. The Aim of the research is to find out the development and importance of criminal law in India .

Materials and methods:

The methods which are used in this research are of secondary sources such as law journals and form of various books on both national and international laws. The intention to provide a conclusion is to find whether there is development of criminal law in India and also ascertaining to what extent it had reached its effectiveness in the modern society .

Observations :

Origins of criminal laws in india

INDIAN CRIMINAL LAWS are divided into three major parts which is (ipc) Indian penal code 1860 and (CRPC) CRIMINAL PROCEDURE CODE 1973 and INDIAN EVIDENCE ACT, 1872. INDIAN PENAL CODE formulated by the British during the BRITISH RAJ in 1860, which formulated the backbone for criminal law in India. Judicial trials were abolished by the government in 1960 on the grounds they would be susceptible to media and public influence. This decision was based on an 8-1 acquittal of Kawas Nanavati in K.M NANVATI VS STATE

OF MAHARASHTRA, which was tumble by higher courts. Indian Penal Code(IPC) was granted under the chairmanship of Lord Macaulay and was enforced in 1862, Lord Macaulay issued illumination for the people of India for implementing this Code, because people were of the view that law of Capital Punishment will be misused against them. Further the people were against foreign rule on Indian people.

Introduction of court systems

The Indian Judiciary is a remaining part of the legal system established by the British Rules and based on the English common law. It consists of legislature precedents, customs and . The Constitution of India, was formulated on 26th January 1950, consists of the law of the land. The Indian Constitution was drafted with elements from Irish, French, American and British laws and also adheres to the human rights code set forth by the United Nations. The Supreme Court is the highest court in the land, followed by the various High Courts and District level courts. Members of the Judiciary are independent of the legislature and the executive branch of government. The judiciary follows a hierarchy. the Supreme Court of India, below which are the High Courts in each state or territory. Below the High Courts lies a hierarchy of Subordinate Courts, below which are small Panchayat Courts that govern civil issues and petty crimes within a village or a group of villages. Each state is divided into judicial districts that are presided over by District and Sessions judges, below whom are Munsifs, Civil judges, and Sub-Judges. At the highest end, the Supreme Court has a Chief Justice and a group of other judges appointed by the President.The President also appoints the Attorney General, who is responsible for advising the government of legal matters. The Attorney General has the right of audience in all courts of India. Below him are the Solicitor General and Additional Solicitors General.There are various branches in Indian law and the judiciary that deal with different aspects of life.

Powers Supreme Court and High court:

The Supreme Court is said to to be the highest court of jurisdiction and the judgments made in the Supreme Court are said to be final and it is also the highest court of appeal for both the civil and criminal matters as of in consideration of the appeals which are to be made in the Supreme Court duely follows certain procedures and thereby only cases which requires its necessity can be allowed for an APPEAL in the Supreme Court .

Functions of Supreme Court and high court

The Indian High Courts Act of 1861 was an act of the Parliament which was derived from the United Kingdom to granted by the England queen to create High Courts in the Indian government .Queen established the High Courts in Calcutta, Madras, and Bombay by Patent in 1865. These High Courts become the ancestors to the High Courts in the present day India. The Act was passed after the GREAT INDIAN REVOLT of 1857 and confinement to the parallel legal system of the Crown which is the East India Company. Every 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 Small fort judges of small cause courts with 5 years of experience or also from the High Courts with 05 years of experience.

Establishment of EAST INDIA COMPANY and its regulation

Company decree India " refers to the rule or dominion of the British Malay Archipelago over elements of the Indian landmass. this can be multifariously taken to own commenced in 1757, once the Battle of battle of Plassey, once the governor of Bengal Siraj Ud Daulah relinquished his dominions to the corporate n 1765, once the corporate was granted the diwani, or the correct to gather revenue, in Bengal and state or in 1773, once the corporate established a capital in Calcutta appointed its 1st Governor-General, Warren Hastings, and have become directly concerned in governance, and by 1818, with the defeat of Marathas followed by the pensioning of the and therefore the annexation of his territories, British ascendancy in India was complete. By 1772, the corporate required British government loans to remain afloat, and there was concern in London that the Company's corrupt practices might shortly run into British business and public life. The rights and duties of the British government with regards the Company's new territories came conjointly to be examined the British parliament then controlmany inquiries and in 1773, throughout the billet of Lord North, enacted the regulation Act, that established rules, its long title declared, "for the higher Management of the Affairs of the Malay Archipelago Company, still in India as in Europe"

Although Lord North himself needed the Company's territories to be seized by the British state.he featured determined political opposition from several quarters, as well as some within the town of London and therefore the British Parliament. The result was a compromise during which the Regulation Act—although implying the last word sovereignty of the these new territories—asserted that the corporate might act as a sovereign power on behalf of the Crown.It might do that whereas at the same time being subject to oversight and regulation by the British government and parliament.

Two phases of Indian legislation :

Indian legislation system throughout British rule

The Legislatures of British {india|India|Republic of India|Bharat|Asian country|Asian nation} enclosed legislative bodies within the presidencies and provinces of British India, the Imperial legislative assembly, the Chamber of Princes and therefore the Central legislature. The legislatures were created under neath Acts of Parliament of the uk. ab initio serving as little consultative councils, the legislatures evolved into partly elective bodies, however were ne'er elective through universal right to vote. Provincial legislatures saw boycotts throughout the amount of political system between 1919 and 1935. underneath the Indian Councils Act 1892, the legislative councils enlarged to twenty members. The councils were authorized to deal with inquiries to the manager and discuss budgets while not balloting. The elected official would nominate seven members from the recommendations of universities, town firms, municipalities, district boards and chambers of commerce.The majority of councilors continuing to be European and a minority were Indian.

The reforms were enacted underneath the Indian Councils Act 1909, that brought amendments to the Acts of 1861 and 1892. However, they didn't go as so much because the demands for self-government advises by the Indian National Congress.

Indian legislation system when independence

- The Parliament of Asian countries and other European countries have similar legislative powers which has the same supreme legislative body Of the Republic of India. The Parliament consists of the President of Asian nation and therefore the homes. it's a law-makers with 2 homes the rajaya Sabha Council of States and therefore the lok sabha (House of the People). The President in his role as head of law-makers has full powers to summon and prorogue either house of Parliament or to dissolve Lok Sabha. The president will exercise these powers solely upon the recommendation of the Prime Minister and his Union Council of Ministers. Lok Sabha House of the folks or the lower house has 545 members. 543 members square measure directly non appointed by voters of Asian country|Bharat|Asian country|Asian nation} on the idea of universal franchise representing Parliamentary constituencies across the country and a pair of members square measure appointed by the President of India from Anglo-Indian Community. each national of Asian nation UN agency is over eighteen years older, regardless of gender, caste, faith or race, UN agency is otherwise not disqualified, is eligible to vote for the Lok Sabha.The Constitution provides that the most strength of the House be 552 members. it's a term of 5 years. To be eligible for membership within the Lok Sabha, someone should be a national of Asian nation and should be twenty five years older or older, mentally sound, shouldn't be bankrupt and will not be apprehensive condemned.
- Rajya Sabha (Council of States) or the higher home is a permanent body not subject to dissolution. One third of the members retire each second year, and square measure replaced by freshly non appointive members. every member is non appointive for a term of six years. Its members square measure indirectly non appointive by members of legislative bodies of the states. The Rajya Sabha will have a most of 250 members. It presently incorporates a sanctioned strength of 245 members, of that 233 square measurenonappointive from States and Union Territories and twelve square measure appointive by the President.

Suggestions:

THEREFORE THE WRONG DOERS OR THE CRIMINAL THUGS WHO MONGED IN SOCIETY WAS AFRAID OF THE PUNISHMENTS THEREBY RESULTED IN REDUCTION IN RATE OF CRIMES.AFTER THE POST INDEPENDENCE SINCE INDIA IS DECLARED AS A DEMOCRATIC COUNTRY.

1. The laws which bonded and punishments which prevailed earlier were altered according to the democracy, since the democracy stressed more public welfare and individual's interest over governing body the democracy stressed more of human values " Rather than punishing someone for their crime they should be rehabilitated and restrained from committing a crime". this principle of democracy has been misused and created a advantage over the laws of democratic country by the convicts and criminals who keep increasing their crimes without honoring law nor consternation of its punishments and therefore continual amendments in law takes place to secure and protect the law of justice. The remedy or to compose a prospective and an efficient governing body in a state or a country is to provide capital punishments and to strictly bind the law in the aspects of democratic agenda in a country and formulate the legislation body and laws which are propounded or when it is am-mended it should contain the aspects of future welfare and based on development of a society thereby no further or a continual amendments will take place . And create a debate upon whether the continual amendments in law system are made for the welfare and development of the society or its because of the inefficiency in pre-existing laws and precedents .One step towards a [proper regulated constitutional system]is to review or rewrite the constitution and amending the ancient laws once in every 70 years which results in a proper way of settling disputes in societies and creating a non disputional law system which need to be amended regularly and therefore the justice is protected once for all without any continual collisions between the society and government .

Conclusion:

Amendments politicize the Constitution: judicial interpretations of the Constitution, as we have seen in the continuing political struggle after kesavanantabarathi vs sate as we may yet

see with decisions on changing the fundamental rights which is right to property is being abolished and not to be considered as fundamental right which had a great retrospective effect in Indian society. Amendments clutter up the Constitution: the real alternative to lengthy text in the Constitution is to have a complex and tangled underbrush of judicial decisions. "A complex society will produce complex constitutional law; the only real question is whether it is good to outsource … complexity to the adjudicative process.".Amendments represent a "rebellion against the Supreme Court: on the contrary, more amendments would leave less room for judicial flip-flops, over-rulings, creative and novel interpretations. An increased rate of amendment might actually legitimise the Court. Where the precedents are taken into consideration more than the actual law itself .Amendments have bad unintended consequences: judicial updating may also have unforeseen consequences, as may judicial inaction or amendment restraint. "Worry about contrary consequences yielding paralysis to justice in law making which is not safe in mere future ."Therefore the HYPOTHESIS is proved to be that there is development in present criminal law.Amendments should not encode "mere social policies" but should expand individual rights or improve government structure:The fact that the previous 101 amendments can be largely categorised this way is "curve fitting" on a very large number of amendments duly not only to developments but also because of the fact that there is a insufficiency of Administrative executive body for no proper implementation of certain laws the conclusion is that the criminal laws have effectively improvised but the fact is that the excecution of punishments regarding the criminal have not reached its efficiency.

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