HISTORICAL INTRODUCTION TO THE INDIAN PENAL CODE

The Mahomedan law with the necessary modifications continued to govern the people of India for a considerable period of the East-India Company's administration. Its provisions were superseded only in cases where the Regulations and the Mahomedan law prescribed distinct penalties for the same offence.[1] It was from the year 1832[2] that the people of Bengal, Bihar and Orissa not professing Mahomedan faith were absolved, if they so desired, from the operation of the Mahomedan criminal law. By 1827 almost all the penal law of the Bombay Presidency had been included in the Regulations.[3] The penal law of the Madras Presidency also was, by this time, Mahomedan law only in its name. An attempt at consolidation of the British empire in India, moreover, necessitated unity of administrative control and uniformity of the laws and judicial systems in all the parts of British India.[4] The Governor-General became the sole authority for promulgating laws for all persons and courts of justice.[5] The Governor-General's Council had one member added who had no say in the executive Government and was concerned along with others in legislative functions.[6] Later on, a sort of Legislative Council was established composed of members of the Supreme Council, one representative each from the Local Governments and two judges of the Supreme Court of Calcutta.[7] This Legislature enacted for a time all laws whether of provincial or all-India application. The Local Governments either themselves sent legislative proposals to the Centre or, after 1854, got them introduced there through their representative sitting there. This state of things continued till 1861 when legislative power was restored to the Governments of Bombay and Madras.[8] The Bengal Legislative Council was also constituted on 17th January, 1862.

The increasing legislative powers of the different Provincial Governments from 1813 onwards were responsible for the growth of a

1. *Fyzoolah (Prosecutor)* v. *Deo Rai and Dhun Singh (Prisoners) 1831.* Proceedings of the Sudder Nizamut Adawlut at Calcutta.
2. Article 5 of Regulation VI of 1832.
3. Bombay Regulation XIV of 1827.
4. Despatch from the Court of Directors to Bengal No. 44 (Public), dated 10th December, 1834, paras 9-11.
5. Section 39 of the Charter Act of 1833.
6. Section 40 of the Charter Act of 1833.
7. Section 22 of the Charter Act of 1853.
8. Preamble and Section 44 of the Indian Councils Act, 1861.

heterogenous system of laws, both substantive and procedural, as enacted by the Regulations of the different Provinces. The conflict of laws, the pattern of which will be hereinafter seen, created difficulties in the administration of the country as a whole. This led to the appointment, as noted before, of a ' Law ' Member of the Council of the Governor-General.[9] The first Law Member, T. B. Macaulay, assumed the charge of his office on 27th June, 1834, with his outlook that India's salvation lay in her wholesale Anglicization. The statute of 1833 provided for the appointment of a Law Commission and from time to time Commissions to inquire fully into the state of laws in force and the administration of justice in the British possessions in India and to make reports thereon.[10] By virtue of this Act as well as subsequent ones, Law Commissions were appointed in 1834, 1853, [11] 1861 and 1879. Of these four Law Commissions, the first and the last worked in India while the second and the third had their sittings in England. No Indians were employed as Commissioners, and the law of England was used as a basis.[12] The British Indian statutes, civil and criminal, substantive and procedural, had, consequently, been enacted without owing their origin to the institutes, texts or their Commentaries of the pre-British India or to the post-Plassey text-books of Hindu or Mahomedan law. Though theoretically conscious [13] of the importance of the relation of the Indian customs, usages, laws and institutions to the new laws to be enacted for the governance of the people here, the Law Commissioners factually could not do justice to the said relations. The Commissioners even resisted the changes introduced by the Government of India to the Draft Bills prepared by the Commission.[14] The representative Indian minds, again, resented the importation of the complex foreign laws and the procedure of their administration.[15] Even where a few vestiges were allowed to remain as relics of the ancient laws of the Indians, they assumed the English garb in a manner which rendered them discernible only to the eye of a veteran scholar and that also only after a good deal of labour and research.[16]

9. Section 40 of the Charter Act of 1833.

10. Section 53 of the Charter Act of 1833.

11. Section 28 of the Charter Act of 1853.

12. Instructions of the British Government to the Third Commission.

13. The Report of the Fourth Indian Law Commission, dated 15th November, 1879.

14. Whitley Stokes: *Anglo-Indian Codes*, Vol. I, 1887, Introduction to the Contract Act, 534.

15. *Banga Darshan*, Pous, 1279 B.S. (Dec. Jan. 1872-73), *Banga Kesher Krishak* (Peasants of Bengal).

16. Acharyya B.K., *Codification in British India:* Physiognomy of the history of Codification in British India, 1914, 40-41.

The Indian Law Commission, with T.B. Macaulay, J.M. Macleod, G.W. Anderson and F. Millet as Commissioners, submitted to the Governor-General in Council, according to the orders of Government of the 15th June, 1835, the (Draft) Penal Code on the 2nd day of May, 1837. It was returned to the Commission in order to be printed under its superintendence.[17] The Draft was accordingly printed under the superintendence of the Law Commission and was, along with the Notes, carefully revised and corrected by the Commissioners while in the press.

At the time the first Indian Law Commission took up the task of drafting a penal code for India, the systems of penal law then established in the different parts of British India widely differed, as noted before, from one another. In the words of the Commission, "The Criminal law of the Hindoos was long ago superseded.....by that of the Mahomedans.....The Mahomedan criminal law has in its turn been superseded, to a great extent by the Regulations. Indeed, in the Territories subject to the Presidency of Bombay, the criminal law of the Mahomedans, as well as that of the Hindoos, has been altogether discarded, except in one particular class of cases; and even in such cases, it is not imperative on the Judge to pay any attention to it. The British Regulations, having been made by three different legislatures, contain, as might be expected, very different provisions. Thus in Bengal serious forgeries are punishable with imprisonment for a term double of the term fixed for perjury;[18] in the Bombay Presidency, on the contrary, perjury is punishable with imprisonment for a term double of the term fixed for the most aggravated forgeries;[19] in the Madras Presidency the two offences are exactly on the same footing.[20] In the Bombay Presidency the escape of a convict is punished with imprisonment for a term double of the term assigned to that offence in the two other Presidencies,[21] while a coiner is punished with little more than half the imprisonment assigned to his offence in the other two Presidencies.[22] In Bengal the purchasing of Regimental necessaries

17. Officiating Secretary J.P. Grant's letter to the Commission, dated Legislative Dept., the 5th June, 1837, National Archives of India, Legislative Department Act of 1860, No. XLV, Part I.

18. Bengal Regulation XVII of 1817, Section IX.

19. Bombay Regulation XIV of 1827, Sections XVI and XVII.

20. Madras Regulation VI of 1811, Section III.

21. Bombay Regulation XIV of 1827, Section XXIV, and Reg. V of 1831, Section 1. Bengal Reg. XII of 1818, Section V, cl. 1. Madras Reg. VI of 1822, Section V, cl. 2.

22. Bombay Reg. XIV of 1827, Section XVIII. Bengal Reg. XVII of 1817, Section IX. Madras Regulation II of 1822, Section V.

from soldiers is not punishable, except in Calcutta, and is there punishable with a fine of only fifty rupees.[23] In the Madras Presidency it is punishable with a fine of Rs. 40/.[24] In the Bombay Presidency it is punishable with imprisonment for four years.[25] In Bengal the vending of stamps without a licence is punishable with a moderate fine; and the purchasing of stamps from a person not licenced to sell them is not punished at all.[26] In the Madras Presidency the vendor is punished with a short imprisonment; but there also the purchaser is not punished at all.[27] In the Bombay Presidency, both the vendor and the purchaser are liable to imprisonment for five years and to flogging."[28]

All the penal law of the Bombay Presidency was by the time contained in the Regulations; and almost all of it was to be found in the extensive Bombay Regulation XIV of 1827. The penal law of Bengal and of the Madras Presidency was, as noted before, the Mahomedan law only in its name. In substance the penal law differed widely from the Mahomedan penal law. The East-India Company's Government in course of time so much modified the Mahomedan penal law in all the three Presidencies that the emergence of a Draft Indian Penal Code in 1835 (not till submitted to the Governor-General in Council) did not meet with any approval or opprobrium of the Indian Press.[29] The people took it with indifference. The Bombay Regulation XIV of 1827, too, superseding, earlier, the Mahomedan penal law did not cause any discontent among the people there.[30]

The Bombay Code, that is, Bombay Regulation XIV of 1827, was not found by the Commission fit to be the groundwork of a Code for all India. The penal law of the Bombay Presidency did not have, it was found by the Commission, any superiority over the penal law of the two other Presidencies, except that of being digested. In framing the Bombay Regulation XIV of 1827, the principles according to which crimes ought to be classified, and punishments apportioned, had been less regarded than in the legislation of Bengal and Madras. It

23. Calcutta Rule Ordinance and Regulation passed 21st August, Registered 13th November, 1821.

24. Madras Reg. XIV of 1832, Section II, cl. I.

25. Bombay Reg. XXII of 1827, Section XIX.

26. Bengal Reg. X of 1829, Section IX, cl. 2.

27. Madras Reg. XIII of 1816, Section X, cl. 10.

28. Bombay Reg. XVIII of 1827, Section XI, cl. 1.

29. *Samachar Durpon*, August 29, 1835.

30. The Indian Law Commission in their prefatory letter dated the 14th of October, 1837, while submitting the printed Draft Indian Penal Code to the Right Hon'ble Lord Auckland, Governor-General of India in Council.

was owing solely to the discretion and humanity of the judges, the Commission observed, that great cruelty and injustice were not daily perpetrated in the criminal courts of the Bombay Presidency.[31]

Many important classes of offences were altogether unnoticed by the Bombay Code; and this omission was supplied by one sweeping clause which armed the courts with the power to punish as they thought fit offences against morality, or against the peace and good order of society, if those offences were penal by the religious law of the offender.[32] The said clause thus did not apply to people who professed a religion with which a system of penal jurisprudence was not inseparably connected. Consequently, a Mohammedan was punishable for adultery; a Christian was at liberty, under the Bombay Code, to commit adultery with impunity.

The population living within the local jurisdiction of the court established by the Royal Charter at the Presidency at Fort William was subject to the English criminal law, which law was considered, in England, as requiring extensive reform. The English law and its procedure were found so defective that it could be reformed only by being entirely taken to pieces and reconstructed.[33]

To quote the Commission, "Under these circumstances we have not thought it desirable to take as the groundwork of the Code any of these systems of law now in force in any part of India. We have, indeed, to the best of our ability, compared the Code with all those systems, and we have taken suggestions from all; but we have not adopted a single provision merely because it formed a part of any of those systems. We have also compared our work with most celebrated systems of Western jurisprudence, as far as the very scanty means of information which were accessible to us in this country enabled us to do. We have derived much valuable assistance from the French Code, and from the decisions of the French Courts of Justice on questions touching the construction of that Code. We have derived assistance still more valuable from the Code of Louisiana, prepared by the late Mr. Livingston. We are the more desirous to acknowledge our obligations to that eminent jurist, because we have found ourselves under the necessity of combatting his opinions on some important questions."

31. For a disparity of punishments from the point of view of their apportionment see page (4) of the prefatory letter of the Indian Law Commission dated 14th October, 1837, while submitting the printed Draft Penal Code to the Governor-General in Council, cited, supra.

32. Reg. XIV of 1827, Section 1. Cl. 1.

33. Letter to Lord John Russell, from the Commissioners appointed to inquire into the state of the Criminal Law (of England), dated 19th January, 1837.

The Governor-General in Council was desirous that some steps should be taken towards a revision of the printed Draft of the Penal Code prepared by the Indian Law Commissioners, and submitted to the Government of India under date the 14th October, 1837, with a view to its adoption with such amendments as might be found necessary, or to its final disposal or otherwise. For this purpose the opinions received from the several Presidencies were referred to the Commission for their examination. The attention of the Commission was also directed to the 'Act of Crimes and Punishments' as contained in the Seventh Report of the Commissioners on the criminal law of England, with a view to comparison, and the detection of any omissions or other imperfections that might exist in the Draft Code.

With these materials the Commission was expected to be enabled to frame such a report as might assist the Government of India in forming a judgment on the merits of the Code at no distant time.[34]

The voluminous papers containing commentaries and strictures on the Draft Penal Code were examined, compared and digested by the Law Commission with great pains and care. The instructive reports of the Commissioners on the English criminal law and the Digest of Crimes and Punishments contained in their Seventh Report were also made use of. References were, again, occasionally made to the Code Penal of France and Livingston's Code for Louisiana. The laws actually administered by the Company's courts under the three Presidencies were also taken note of. With these materials in their mind, the Commissioners, C.H. Cameron and D. Eliott, proceeded to revise the Chapters, taking clause, by clause, and considering particularly the criticisms, objections or suggested amendments, and submitted their First Report on the Penal Code under date the 23rd July, 1846.

The printed Draft Penal Code prepared by the Indian Law Commissioners and submitted to the Government of India under date the 14th October, 1837, consisted of 488 Clauses of which 233 Clauses were comprised in the Chapters reviewed in the First Report on the Indian Penal Code submitted on the 23rd July, 1846, with a Postscript dated the 5th November, 1846. After the First Report ending on the 650th paragraph was finished, the second Report of Her Majesty's Commissioners for revising and consolidating the Criminal Law (of England) and submitted to Her Majesty on 14th May, 1846, came into the hands of the Commissioners here. The modifications as proposed in the second Report of Her Majesty's Commissioners were

34. Secretary Bushby's Letter, dated the 26th April, 1845, to the Indian Law Commission.

taken notice of so far as they were relevant to the matters treated of in the Chapters of the Indian Code which had been reviewed in the first Report on the Indian Penal Code. The findings of the Commissioners, C. H. Cameron and D. Eliott, were appended, as noted before, to the first Report as a Postscript dated the 5th November, 1846.

The second and concluding Report on the Indian Penal Code proceeded on all the Chapters of offences not before examined and was submitted by C. H. Cameron and D. Eliott, the Indian Law Commissioners, under date the 24th June, 1847.

The papers referred to the Law Commission for their examination comprised Reports from Sir J. P. Grant, Sir H. W. Seton, Judges of the Supreme Court of Calcutta, Sir R. B. Comyn and Sir E. J. Gambier respectively the Chief Justice and Judge of the Supreme Court at Madras, Sir H. Compton, Chief Justice, and Sir J. Awdry, Judge and afterwards Chief Justice, of the Supreme Court at Bombay. They also comprised a Report from Mr. G. Norton, the Advocate-General at Madras and one from Mr. J. Cochrane, the Company's Standing Counsel at Calcutta. There were also a Report from the Sudder Court for the North-Western Provinces under the Presidency of Fort William in Bengal, and separate Reports from W. Hudleston and A. D. Campbell, two of the Judges of the Sudder Court at Madras, and Giberne, Pyne and Greenhill, three of the Judges of the Sudder Court at Bombay, accompanied by Reports from the judges, magistrates and other officers subordinate to the said courts and a separate Report from Colonel Sleeman, Commissioner for the Suppression of Thuggee.

Sir H. Compton observed that in drafting a Penal Code which sought to be substituted for all the systems which then prevailed, the Law Commissioners had done what was not intended by Parliament. The Parliament did not think it expedient to change the whole penal jurisprudence of British India. According to Sir H. Compton and Sir E. J. Gambier, the existing penal laws could be modified by additions and alterations the utility or the need of which had been evinced by experience. Sufficient and sound materials could be found in the existing systems of penal law, the judges observed, for making such alterations and amendments as the form of Government and the condition of the people might require.

The Reports of Sir H. Seton and Sir R. Comyn contained comments upon details as well as general remarks and criticisms upon the plan of the work and the principles laid down in it and expounded in the Notes (in the printed Draft Indian Penal Code dated the 14th

October, 1837). According to Sir H. Seton, the best justification of a codified penal law was to be found in the necessity of some system, the absence of any satisfactory one and the hopelessness of construing a more perfect one except by means of successive improvements upon the Penal Code once formed. If the attempt were to be delayed, he observed further, until all the information which theoretically might be considered desirable were obtained, it could never have been made.

The Law Commissioners (C. H. Cameron and D. Eliott) concluded that the Draft Penal Code was sufficiently complete and with slight modifications, as suggested, fit to be acted upon. The revised edition of the Penal Code was then forwarded to the Judges of the Supreme Court at Calcutta on 30th May, 1851, for the favour of any observations or suggestions on its provisions which might appear to them to be necessary. Under Home Department, Legislative, the 30th May, 1851, the Judges of the Sudder Court at Calcutta were also each separately addressed for the like observations and suggestions. The said revised edition was the Draft Act of the criminal law as prepared by Mr. Bethune, the Legislative member of the Legislative Council of India. Chief Justice Lawrence Peel and Mr. Justice Buller of the Supreme Court at Calcutta made their observations on the Draft Act as prepared by Mr. Bethune.[35] Mr. Justice Colvile forwarded his opinion on the revised edition of the Penal Code in June 1852.[36] The Judges of the Sudder Court at Calcutta were again addressed to give their views on the revised edition of the Penal Code.[37]

With Letter, Legislative Department, dated 9th August, 1851, the revised edition of the Penal Code with copies of the minutes recorded by the Governor-General and the other members of the Government on the subject was sent to the Company in London.[38]

The Court of Directors in London were anxious to see the Penal Code enacted as early as it would be possible.[39] They made, earlier, Barnes Peacock, the fourth member of Council.[40]

35. Chief Justice Lawrence Peel's letter dated Cossipore, Thursday, September 11, 1851, to the Hon'ble the President of Legislative Council of India in Council.

36. Mr. Justice Colvile's Memo, to Governor-General in Council, Court House, June, 1852.

37. Home Department, Legislative, March 27, 1852.

38. Company's Letter to the Government of India, No. 2 of 1852, dated London, Legislative Department, 4th February 1852.

39. Letter—Legislative Department No. 15 of 1854 to the Governor-General of India in Council dated London the 5th April, 1854.

40. Companys' letter dated 4th February, 1852, cited *supra*.

The Committee (consisting of J.P. Grant, B.P. Peacock, James William Colvile, D. Eliott and U.I. Moffatt Willis) to whom the Penal Code had been referred, in their letter to the Hon'ble the Legislative Council dated July 7, 1854, stated that since the Committee had been constituted, several meetings had been held upon the Penal Code, and they had come to the conclusion to recommend to the Council that the Penal Code as originally proposed by the Indian Law Commissioners when Mr. Macaulay was the President of the Commission should form the basis of the system of penal law to be enacted for India. They were accordingly taking into consideration the various alterations therein and additions thereto that had been proposed to be made; and they intended to submit to the Legislative Council a revised code embodying such of the proposed alterations and additions as might appear to them to be improvements, and such other amendments as might suggest themselves to them in the course of their revision. They did not intend to recommend, they observed, any substantial alteration in the framework or pharaseology of the original code. They hoped to be able to submit to the Council in the course of a few months their report, together with a code revised upon the principles thus explained.

Suggestions for the creation of new crimes and their punishments came from all quarters and were handed over to the Committee of the Council engaged in the revision of the draft of the Penal Code for their examination.

The revised Indian Penal Code was prepared and brought in by Barnes P. Peacock, Sir James William Colvile, J.P. Grant, D. Eliott and Sir Arthur Buller. It was read a first time on the 28th December, 1856.[41] The Indian Penal Code Bill was read a second time on the 3rd January, 1857, and was referred to a Select Committee who were to report thereon after the 21st of April, 1857.[42] The Supplement to the Calcutta Gazette of the 21st, 24th and 28th January, 1857, published the Indian Penal Code Bill after its second reading. The Indian Penal Code was then passed by the Legislative Council of India, and received the asent of the Right Hon'ble the Governor-General on the 6th October, 1860. It was due to come into force on the first day of May, 1861. The Act as passed was published in the Appendix to the Calcutta Gazette dated 13th, 17th and 20th October, 1860, respectively.

41. National Archives of India, Legislative Dept. Act of 1860 No. XLV—Part II.
42. Supplement to the Calcutta Gazette, dated 28th January, 1857.

In order to enable the people, the judges and the administrators to know the provisions of the new Penal Code, the enforcement of the code was deferred till the first day of January, 1862, by the enactment of Act VI of 1861.

Her Majesty's Secretary of State for India sent a despatch [43] declaring the sense which Her Majesty's Government entertained of the high value of the service rendered to the Government of India in the important part which Sir Barnes Peacock took in carrying the Indian Penal Code through the Legislative Council. Sir Barnes Peacock was thanked also by the Government of India upon the accomplishment of the great work which owed its completion to the ability and indefatigable zeal which he had devoted to it.[44]

The statement of facts as made in the foregoing paragraphs seeks mainly to delineate the different stages the work of codification of the penal law in India underwent during the years 1834-1860. A few observations may however be herein made as to the interest shown by the people in the Draft Indian Penal Code as well as their reactions thereto. As it has been seen, almost all the Englishmen knowledgeable in law and holding positions of responsibility in different parts of India took an interest in the Penal Code while in the making though it has to be remembered that the Indian Penal Code as it ultimately emerged in 1860 was mainly the work as originally proposed by the Law Commissioners when T.B. Macaulay was the President of the Commission. The Indian section of the community, though equipped and actively interested even from the first quarter of the nineteenth century in the day to day legislation for British India, had no hand in the making of the Indian Penal Code of 1860. The considerable period of time taken in the making of the Code,[45] as well as the huge sums of money expended on the Commissions [46] did not fail to invite strictures from the intelligentsia of the time. A section of the Indian community also resented the technical and cumbersome procedure of the foreign laws as embodied in the Indian Acts.[47] The authors of the Draft Indian Penal Code themselves observed that it would be

43. National Archives of India ; Legislative No. 19 of 1860 dated 22nd December.

44. National Archives of India ; Legislative Dept. 1861, A. Proceedings, February, 1861, No. 9.

45. See *The Indian Reform*—No. 1 ; See also *Government of India since 1834*, 16.

46. J. B. Norton : *The Administration of Justice in Southern India*, 127-129.

47. *Banga Darshan*, Pous, 1279 B.S., cited, *supra*.

greatly difficult to procure good translations of their work.[48] The succeeding Law Commissioners found the Draft Indian Penal Code absolutely untranslatable.[49] According to the *Hindoo Patriot* of January 29, 1857, the promises of simplicity, completeness and general intelligibility, which codifiers made of their work, failed grossly when brought to the test of practical application. None, however, whether Hindu or Mahomedan, mourned the disappearance of the Mahomedan law of crimes and evidence from the India Code.[50]

The Central Legislature in course of a century enacted a number of Acts affecting the Indian Penal Code or supplementing the penal law of India.[51] As a result of devolution of power, a number of Acts have also been passed by the Provincial or State Legislatures enacting substantive provisions of criminal law or amending the provisions of the Code of Criminal Procedure.[52]

48. Law Commissioners' prefatory address, dated 14th October, 1837, cited, *supra.*

49. First Report on the Penal Code by the Indian Law Commissioners, 23.

50. *Samachar Durpon*, August 29, 1835, cited, *supra*; Sir Sayyed Ahmed's Memorandum, recorded in the Abstract of Proceedings of the Legislative Council of the Governor-General dated the 26th January, 1882, 63, 64; Law Commissioners' prefatory address, dated 14th October, 1837, cited, *supra*.

51. *See* the Indian Penal Code (45 of 1860), Government of India, Ministry of Law, 1961. List of Amending Acts and Adaptation Orders.

52. Criminal law including criminal procedure formed Entry 30 of Schedule, Part I—Central Subjects—to the Devolution Rules as made under section 45A of the Government of India Act where the expression "The Government of India Act" meant not a separate parliamentary enactment but a properly certified version of the Act of 1915 as subsequently amended. A copy of the Government of India Act, 1915, with the amendments, whether by way of substitution, addition, or omission, required by the Government of India (Amendment) Act, 1916, and by section 45 of the Government of India Act, 1919, and the Second Schedule thereto, had to be prepared and certified by the Clerk of the Parliaments, and deposited with the Rolls of Parliament. After the passing of the Government of India Act, 1919, His Majesty's printer printed copies of the Government of India Act, 1915, in accordance with the copy so certified. The Government of India Act, 1915, as so amended, would be cited as "The Government of India Act." See Section 45 of the Government of India Act, 1919 (9 & 10 Geo. 5, c. 101). Criminal law including criminal procedure was thus Central subject under the said Government of India Act. Under the Government of India Act, 1935, "Criminal law, including all matters included in the Indian Penal Code at the date of the passing of this Act, but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of His Majesty's naval, military and air forces in aid of the civil power" and "Criminal procedure, including all matters included in the Code of Criminal Procedure at the date of the passing of this Act" formed respectively Entries 1 and 2 of the List III—Concurrent Legislative

List in the Seventh Schedule to the Act of 1935. Under the Constitution of India, too, the subject of " Criminal law, including all matters included in the Indian Penal Code at the commencement of this Constitution but excluding offences againsts laws with respect to any of the matters specified in List I or List II and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power " and " Criminal procedure, including all matters included in the Code of Criminal Procedure at the commencement of this Constitution " respectively form Items 1 and 2 in the List III—Concurrent List—in the Seventh Schedule to the Constitution.