

SRMUH LAW REVIEW



Volume 2

Issue 1 & 2

2024

Special Volume on New Criminal Laws and It's Interface

A Review of Criminal Law Reforms in India: Shaping the Future of Criminal Law in India
— Prof. (Dr.) Paramjit S. Jaswal & Prof. (Dr.) Vijay Kumar Singh

Reforms in Criminal Procedure Code [Bharatiya Nagarik Suraksha Sanhita (2023)] Main Features and Challenges
— Prof. Mehraj Uddin Mir

From Colonial Legacy to Indigenous Jurisprudence: Evaluating the Transformation of Indian Criminal Laws in the 2023 Reforms
— Dr. Sunil Dutt Chaturvedi & Kuldeep Kumar Yadav

Plea Bargaining: A Case for Rationalisation and Optimisation
— Prof. C.S. Patil

Comparative Insights from Global Jurisdictions on the Future of Criminal Law in the Era of Artificial Intelligence
— Kalrav Krishna Tripathi & Kanishka Tyagi

A New Approach to Sentencing: Assessing the Viability of Community Service in the Bharatiya Nyaya Sanhita, 2023 and Global Precedents
— Dr. Ausaf Ahmad Malik & Mr. Abhilash Aggarwal

Comparing Capital Punishment in India and US vis a vis New Criminal Law
— Swikriti Mahajan & Rufi Khan

Topic-Navigating Legal Uncertainties in India's Crypto Asset Regulation: Analytical Study
— Dr. Madhuri V. Sarwade

Cybercrimes in the Digital Age: An Analysis of Threats, Legal Responses, and Prevention Strategies
— Mr. Manindra Singh Hanspal

Delineating Joint and Constructive Liability in Indian Criminal Justice System
— Dr. Gurpal Singh & Dr. Manoj Kumar Sharma

Integrating Technologies to Enhance Right of Access to Justice under New Criminal Laws
— Shubham Pandey & Uday Shankar

A Critical Examination of Hearsay Evidence: A Safeguard or a Threat to Justice
— Dr. Shalini Saxena & Dr. Ashish Verma

Bharatiya Nyaya Sanhita, 2023: Shifting Paradigms in the Sentencing of Life-Term Convicts
— Dr. Chemmalar & Mr. Patcheappan

SRMUH LAW REVIEW

Volume II (Issue 1 & 2) | 2024

ISSN: 3048-6912

[Cited as: SRMUHLR (2) 2024]

*Special Volume on New Criminal Laws
and its Interface*

Published by:

FACULTY OF LAW

SRM UNIVERSITY DELHI - NCR, SONIPAT, HARYANA

Copyright @ Faculty of Law, SRM University, Delhi-NCR Sonapat Haryana
SRMUH Law Review is published biannually with ISSN No

The SRM University, Delhi-NCR Sonapat assumes no responsibility for the statements and opinions expressed and advanced by the respective authors.

Copyright over all the articles, case comments, and book reviews published in the journal, including the cover and rear photographs and designs, are held by the SRM University, Sonapat Haryana. Any type of commercial use of any of the protected materials is strictly prohibited. Non-commercial academic use is permitted with proper reference to the Journal.

Contact us:

SRM University, Delhi-NCR Sonapat Haryana

39, Rajiv Gandhi Education City PS Rai, Sonapat, Haryana – 131029

srmlr@srmuniversity.ac.in | deanlaw@srmuniversity.ac.in

website: <https://srmuniversity.ac.in/>

Distributed exclusively by:

Eastern Book Company

34, Lalbagh, Lucknow - 226001

U.P., India

Website: www.ebcwebstore.com Email: sales@ebc.co.in

NOTE: The views expressed by the contributors are personal and do not in any way represent the institution.

SRMUH LAW REVIEW

Volume II (Issue 1 & 2) | 2024

PATRON

Dr. Ravi Pachamuthu

Chancellor, SRM University, Delhi NCR Sonapat

Mrs. Padmapriya Ravi

Vice Chairman & Managing Director, SRM Group

Ms. Harini Ravi

Director, Institutional Development, SRM Group

Prof. (Dr.) Paramjit S. Jaswal

Vice Chancellor, SRM University, Delhi NCR Sonapat

THE ADVISORY BOARD

Hon'ble Justice (Retd.) M.M. Kumar

*Former Chief Justice, J&K High Court and Founder President,
National Company Law Tribuna*

Prof. (Dr.) Ranbir Singh

Jurist and Former Vice Chancellor, NALSAR and NLU Delhi

Prof. (Dr.) V.C. Vivekanandan

Vice Chancellor, Hidayatullah National Law University (HNLU), Raipur

Prof. (Dr.) Ashok R. Patil

*Vice Chancellor, National University of Study and Research in Law
(NUSRL), Ranchi*

Mr. Manas Kumar Chaudhuri

Partner, Competition Law Practice at Khaitan & Co.

Dr. G.R. Raghavender

Former Joint Secretary Ministry of Law and Justice

Dr. Vinod Surana

Professor of Practice, SRMUH

Managing Partner Surana & Surana International Attorneys

Prof. (Dr.) V. Samuel Raj

Dean, Academic Affairs and Registrar, SRMUH

THE EDITORIAL BOARD

EDITOR-IN-CHIEF

Prof. (Dr.) Vijay Kumar Singh
Dean, Faculty of Law, SRMUH

ASSOCIATE EDITOR

Dr. Ajay Kumar
Professor of Law and Dean, Academic Affairs
Chanakya National Law University

Dr. Anjali Dixit
Associate Professor, Faculty of Law, SRMUH

Dr. Kanika Aggarwal
Assistant Professor, Faculty of Law, SRMUH
Coordinator, Centre for Criminal Law and Public Policy, SRMUH

MANAGING EDITOR

Raka Medhavi
Assistant Professor Faculty of Law, SRMUH

EXPERT PEER- REVIEW BOARD

Dr. Anurag Deep

Professor, Faculty of Law, University of Delhi

Dr. Vageshwari

Professor, Faculty of Law, University of Delhi

Dr. Amol Deo Chavhan

Professor, NLUJA Assam

Dr. Sangita Laha

Associate Professor,
National University of Study & Research in Law, Ranchi

Dr. Sachin Kumar Sharma

Associate Professor, Nirma University

Dr. Mukul Raizada

Professor, National Law University Delhi

Dr. Navtika Nautiyal

Assistant Professor

Department of Law, Forensic Justice and Policy Studies

Prof. Dr. Sandeep Kulshrestha

Professor & HOD, Faculty of law, SRM university

Dr. Shalini Saxena

Associate Professor, Faculty of law, SRM university

न्यायमूर्ति दिनेश माहेश्वरी
पूर्व न्यायाधीश, सर्वोच्च न्यायालय
अध्यक्ष
भारत का विधि आयोग
विधि एवं न्याय मंत्रालय
भारत सरकार



Justice Dinesh Maheshwari
Former Judge, Supreme Court of India
Chairperson
Law Commission of India
Ministry of Law & Justice
Government of India

Foreword

It is with great esteem that I compose the foreword to this insightful edition of SRMUH Law Review, Volume II (Issues 1 & 2), which is dedicated to critical analysis and discussions concerning recent and significant amendments in criminal law.

The ongoing evolution of the criminal justice system in our country reflects the dynamic nature of societal norms and challenges. Amendments to criminal law had been essential for upgrading, modernizing and reinforcing the legal framework, thereby ensuring that justice remains accessible, equitable and effective. Yet, these reforms are not devoid of continuity from the past; they echo the ideals deeply embedded in classical Indian jurisprudence with *Dharma* - the pursuit of moral order and justice - being central to them. The timeless quest for a balanced approach between every two seemingly conflicting concepts - such as deterrence and reformation - found in both ancient legal treatises and present-day amendments, demonstrates the enduring relevance of India's indigenous wisdom alongside modern legal thought.

The volume at hand – meticulously prepared by SRMUH - offers an extensive examination of criminal law reforms in India, addressing both the persisting concerns and the new issues arising in today's rapidly changing legal environment. The scholarly articles included herein thoroughly evaluate important procedural reforms, offering critical insight into their defining characteristics and the practical obstacles encountered during implementation. Collectively, these contributions shed light on pertinent transition from colonial implants towards an indigenous jurisprudence that better embodies the spirit and dynamics of modern India. Particularly noteworthy are the studies on plea bargaining, sentencing reforms, and the integration of community service as a progressive alternative to traditional custodial sentences. These subjects underscore the nation's commitment to balancing justice, rehabilitation, and efficiency. This volume examines how these reforms bolster procedural efficiency and protect human rights, while striving for a balanced approach. In updating

our laws for new threats, we remain guided by the ancient Indian ideal of *Nyaya*—justice rooted in equity, proportionality and the welfare of society.

The review also addresses critical and sensitive topics such as capital punishment, hearsay evidence, and the delineation of joint and constructive liability—issues fundamental to the safeguarding of rights and procedural fairness. Moreover, the volume's inclusion of research on cybercrimes and virtual asset regulation demonstrates the necessity for proactive adaptation to the evolving challenges of the digital era. Comparative studies with global jurisdictions further enhance the understanding of how India's criminal law aligns with international best practices, particularly as technology is advancing and artificial intelligence is increasingly reshaping the legal processes.

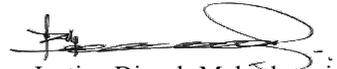
Criminal activity has grown ever more complex and entwined with technology, outpacing legal frameworks built for traditional offences. Although laws now target hacking, phishing and online fraud, the criminals constantly adapt—blurring the line between innocent conduct and illicit schemes. What began as white-collar financial misconduct has evolved into multilayered operations that combine organized cyber syndicates, manipulative algorithms and social-engineering tactics. Meeting these challenges requires both sharp analysis and robust reform, such as the recent criminal law amendments.

In reflecting upon these developments, it is instructive to recall the profound heritage and depth of India's legal tradition. The roots of criminal jurisprudence in India can be traced to ancient texts that laid the groundwork for the concepts of justice, punishment, and social order. For example, the *Manu Smriti*, with its elaborate catalogue of offences and prescribed punishments; the *Yajnavalkya Smriti*, with systematic classification of crimes and gradation of punishments; the *Narad Smriti*, with focus on procedural clarity in criminal cases; and the *Arthashastra*, with meticulous discussions on the matters like espionage, theft, and statecraft, would instantly draw our attention. These and later commentaries and digests by the eminent jurists from time to time, while ensuring adaptations to the requirement of changing times, set the precedents for balancing retribution and rehabilitation - themes still central to contemporary criminal law reforms. Likewise, these works contributed significantly to the evolution of rules regarding evidence, culpability, and restorative justice. Scholars should revisit these early systems to appreciate their balance of fairness and deterrence; and strive to bridge ancient wisdom with today's needs.

It is equally a responsibility of the young generation to harmonise the integration of ancient jurisprudential wisdom with forward-looking legal innovation and propose resilient frameworks to address the complexities of present and future criminal justice challenges. It is within this dynamic equilibrium that the promise of just and effective legal governance for India's diverse society truly resides.

I trust that this volume will serve as a valuable resource and foster further dialogue and reform within the field of criminal law. I commend the editorial team of the SRM Law Review for their unwavering dedication to promoting rigorous research and analysis in this vital area of law. I am confident that this edition will substantially contribute to the enduring pursuit of justice and the rule of law in India. I am also confident that the future volumes will aim to explore the emerging trends in greater depth, offering insights into potential challenges and, more pertinently, the possible solutions.

July 25, 2025



Justice Dinesh Maheshwari

Editorial Note

It is with immense pride and academic commitment that we present Volume 2 (Issues 1 & 2) of the SRMUH Law Review, centred on the theme **“Changing Facets of Criminal Jurisprudence in India with Special Reference to New Criminal Laws.”** This volume comes at a transformative time for the Indian legal system, as it witnesses the replacement of long-standing colonial-era statutes with three new criminal codes—the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhinyam. These legal reforms are not merely cosmetic substitutions but reflect a paradigmatic shift towards indigenous jurisprudence, victim-centric justice, and procedural efficiency. The current issue, through its carefully curated selection of scholarly articles, critiques and analyses these developments from diverse legal, procedural, comparative, and philosophical perspectives.

The volume opens with a paper by Prof. (Dr.) Paramjit S. Jaswal and Dr. Vijay Kumar Singh, titled *“A Review of Criminal Law Reforms in India: Shaping the Future of Criminal Law in India.”* This article critically evaluates the socio-political and legal rationale behind India’s recent criminal law overhaul. The authors provide a comprehensive historical account of procedural developments while also engaging with the limitations of the adversarial system and the significance of technological integration in achieving efficiency, transparency, and accountability.

In the second paper, Prof. Mehraj Uddin Mir analyses *“Reforms in Criminal Procedure – Exploring the Main Features and Challenges.”* The article explores the trajectory of the criminal procedure code from its colonial origin to its current form, focusing on the new provisions introduced under the Bharatiya Nagarik Suraksha Sanhita, 2023. It also scrutinizes systemic bottlenecks such as investigation delays, low conviction rates, witness intimidation, and custodial violations.

Dr. Sunil Dutt Chaturvedi in his piece *“From Colonial Legacy to Indigenous Jurisprudence: Evaluating the Transformation of Indian Criminal Laws in the 2023 Reforms”* examines the philosophical and jurisprudential underpinnings of the shift from colonial codes to Indianised statutory frameworks. The article emphasizes the infusion of constitutional values, indigenous traditions, and technological modernity into the new legal architecture.

Prof. C. S. Patil contributes a significant article titled *“Plea-Bargaining: A Case for Rationalisation and Optimisation.”* The author revisits the underutilized mechanism of plea bargaining in the Indian criminal justice system and proposes reforms that align with global standards. His analysis explores how

structured bargaining could reduce pendency, ensure faster trials, and potentially restore public faith in the legal process.

The role of artificial intelligence in shaping future criminal jurisprudence is critically addressed by Kalrav Krishna Tripathi and Kanishka Tyagi in their article *“Comparative Insights from Global Jurisdictions on the Future of Criminal Law in the Era of Artificial Intelligence.”* The authors present a comparative assessment of how various jurisdictions have responded to AI-related criminal liabilities and provide valuable suggestions for India’s evolving legal-technological interface.

The article *“A New Approach to Sentencing: Assessing the Viability of Community Service in the Bharatiya Nyaya Sanhita, 2023 and Global Precedents”* by Dr. Ausaf Ahmad Malik and Abhilash Aggarwal investigates the shift from custodial sentencing towards alternative punishments like community service. The authors contextualize this shift within the broader global movement toward restorative justice and explore its implementation challenges in the Indian legal framework.

Swikriti Mahajan and Rufi Khan in their joint contribution *“Comparing Capital Punishment in India and US viz a viz New Criminal Law”* conduct a comparative analysis of death penalty jurisprudence in India and the United States. The authors discuss proportionality in sentencing, constitutional morality, and emerging trends in abolitionist jurisprudence.

The complex interface between digital assets and criminal regulation is the focus of Dr. Madhuri V. Sarwade in *“Navigating Legal Uncertainties in India’s Crypto Asset Regulation: An Analytical Study.”* Her work explores regulatory ambiguity, jurisdictional challenges, and the lack of enforcement mechanisms in crypto-related crimes, offering much-needed clarity on the way forward.

In *“Cybercrimes in the Digital Age: An Analysis of Threats, Legal Responses, and Prevention Strategies,”* Manindra Singh Hanspal discusses the rapidly evolving domain of cybercrime. The article analyses the legal inadequacies in existing laws and proposes policy changes to strengthen digital policing, evidence collection, and public awareness.

Dr. Guralp Singh and Dr. Manoj Kumar Sharma in their collaborative piece *“Delineating Joint and Constructive Liability in Indian Criminal Justice System”* revisit foundational doctrines under the penal code. The authors critically assess how the new legislation interprets group liability and whether these changes are sufficient to meet the demands of modern organized crime scenarios.

In a thought-provoking paper titled *“Integrating Technologies to Enhance Right of Access to Justice under New Criminal Laws,”* Shubham Pandey and Uday Shankar argue that digital infrastructure—such as e-FIRs, online

charge-sheets, and virtual trials—could transform the justice delivery mechanism by enhancing inclusivity and accessibility.

Dr. Shalini Saxena and Ashish Verma, in their analytical work *“A Critical Examination of Hearsay Evidence: A Safeguard or a Threat to Justice”*, explores the admissibility of hearsay under the Bharatiya Sakshya Adhinyam. She raises pertinent questions about the reliability and fairness of secondary evidence, and whether procedural safeguards under the new law are sufficient.

The volume concludes with an insightful contribution by Dr. Chemmalar and Mr. Patcheappan, titled *“Bhartiya Nyaya Sanhita, 2023: Shifting Paradigms in the Sentencing of Life-Term Convicts.”* The authors evaluate the codified structure for commutation, remission, and parole, and reflect on the shift from retributive to reformatory justice in the context of life imprisonment.

Each of these contributions demonstrates academic rigor and a commitment to critical inquiry, collectively capturing the spirit of criminal law reform in India. As the country transitions into a new legal order, this volume aims to serve as both a reflective archive and a forward-looking guide for scholars, practitioners, and policy-makers.

Editorial Board

SRMUH Law Review

Volume II, Issues 1 & 2

Contents

A Review of Criminal Law Reforms in India: Shaping the Future of Criminal Law in India — <i>Prof. (Dr.) Paramjit S. Jaswal & Prof. (Dr.) Vijay Kumar Singh</i>	1
Reforms in Criminal Procedure Code [Bharatiya Nagarik Suraksha Sanhita (2023)] Main Features and Challenges — <i>Prof. Mehraj Uddin Mir</i>	22
From Colonial Legacy to Indigenous Jurisprudence: Evaluating the Transformation of Indian Criminal Laws in the 2023 Reforms — <i>Dr. Sunil Dutt Chaturvedi & Kuldeep Kumar Yadav</i>	40
Plea Bargaining: A Case for Rationalisation and Optimisation — <i>Prof. C.S. Patil</i>	62
Comparative Insights from Global Jurisdictions on the Future of Criminal Law in the Era of Artificial Intelligence — <i>Kalrav Krishna Tripathi & Kanishka Tyagi</i>	72
A New Approach to Sentencing: Assessing the Viability of Community Service in the Bharatiya Nyaya Sanhita, 2023 and Global Precedents — <i>Dr. Ausaf Ahmad Malik & Mr. Abhilash Aggarwal</i>	95
Comparing Capital Punishment in India and US vis a vis New Criminal Law — <i>Swikriti Mahajan & Rofi Khan</i>	106
Topic-Navigating Legal Uncertainties in India’s Crypto Asset Regulation: Analytical Study — <i>Dr. Madhuri V. Sarwade</i>	122

Cybercrimes in the Digital Age: An Analysis of Threats, Legal Responses, and Prevention Strategies — <i>Mr. Manindra Singh Hanspal</i>	142
Delineating Joint and Constructive Liability in Indian Criminal Justice System — <i>Dr. Gurpal Singh & Dr. Manoj Kumar Sharma</i>	161
Integrating Technologies to Enhance Right of Access to Justice under New Criminal Laws — <i>Shubham Pandey & Uday Shankar</i>	186
A Critical Examination of Hearsay Evidence: A Safeguard or a Threat to Justice — <i>Dr. Shalini Saxena & Dr. Ashish Verma</i>	213
Bharatiya Nyaya Sanhita, 2023: Shifting Paradigms in the Sentencing of Life-Term Convicts — <i>Dr. Chemmalar & Mr. Patcheappan</i>	225