

SRMUH LAW REVIEW



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Special Volume on New Criminal Laws and It's Interface

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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 Adhiniyam. 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 Rofi 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. Gurpal 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

Topic-Navigating Legal Uncertainties in India's Crypto Asset Regulation: Analytical Study

—Dr. Madhuri V. Sarwade*

ABSTRACT

The world economy has gone through many booms and busts cycles. But the last financial crisis of the economy in 2008 gave a wake-up call to many people.¹ The growing popularity of cryptocurrencies has sparked global debates, and India is no exception. As interest surges alongside potential risks, the need for clear regulatory frameworks has become increasingly urgent. The state of bitcoin regulation in India is an intriguing case study. In contrast to certain nations that have explicit prohibitions or regulations, India finds a medium ground. While it hasn't outright banned crypto currency, it hasn't legalized it either. This "wait-and-see" strategy leads to continuous change because of ongoing discussions and changing policies. You may learn more about India's crypto currency laws and challenges rooted by reading this article.

As with other emerging technologies, regulating this ecosystem is like walking a tightrope – it requires a delicate balance between preventing harms, protecting users and promoting innovation.² In India, Virtual Digital Assets (VDAs) have yet to gain complete regulatory recognition as a distinct asset class.³ Although there have been sporadic attempts to regulate them, VDAs, or

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- ¹ International Monetary Fund, World Economic Outlook: Crisis and Recovery, April 2009 (2009), available at: <https://www.imf.org/external/pubs/ft/weo/2009/01/> (accessed on Nov. 26, 2024).
- ² World Economic Forum, "Pathways to the Regulation of Crypto-Assets: A Global Approach" White Paper May 2023 (June 6, 2023), available at: https://www3.weforum.org/docs/WEF_Pathways_to_the_Regulation_of_Crypto_Assets_2023.pdf (accessed on Nov. 26, 2024).
- ³ Khaitan & Co. (Smita Jha, Sanjay Khan Nagra, Aniruddha Basu, Nitin Raghu and Maansi Reddy Basani), "Evolving Regulatory Paradigms for Cryptocurrencies in India" (Feb. 8, 2024), available at: <https://www.lexology.com/library/detail.aspx?g=8861fffa-fec9-4226-bd8e-c794a8319548> (accessed on Nov. 26, 2024).

cryptocurrencies as they are better known, are not yet officially recognized as a category or subject to any particular regulatory frameworks.

Keywords: Cryptocurrency, crime, criminals, illegal, money laundering, Regulation of Digital Currencies, Bitcoins, Blockchain Technology, Central Bank Digital Currency (CBDC).

1. INTRODUCTION

"Gold flows because it has value, but the paper money has value because it circulates."

Karl Max

Historically, it was financial institutions that pioneered novel technologies in the financial sector.⁴ However, there have been notable changes in the traditional business sector as a result of the internet's ubiquitous availability. Alternative currencies may someday become feasible due to lower transaction and information costs made possible by advancements in technology and payment system technologies. The proposal and confirmation of legal transactions within the blockchain consensus of prominent cryptocurrencies is another issue of significant interest to the distributed systems community, as well as to regulatory bodies worldwide.⁵ All transactions involving cryptocurrencies must adhere to the laws of the federal jurisdiction in which they are proposed. The validity and structure of cryptocurrency transactions must therefore be decided by the financial regulators of different federal governments. Cryptocurrencies are a groundbreaking form of digital currency that has appeared in recent years as a direct result of the increasing use of the internet.

India is not an exception to the major issues that the emergence of crypto assets, particularly crypto currencies like Bitcoin and Ethereum, has produced for legal and regulatory systems worldwide. Due to a complex interaction between technological innovation, regulatory ambiguity, and the dynamic character of financial institutions, the legal position of crypto assets in India is still in flux. India's experience regulating crypto currency assets has been

⁴ Arner, D.W., Barberis, J., and Buckley, R.P., "The Evolution of Fintech: A New Post-Crisis Paradigm?" 47(4) *Georgetown Journal of International Law* 1271-1319 (2016), available at: <https://ssrn.com/abstract=2676553> (accessed on Nov. 26, 2024).

⁵ Catalini, C., and Gans, J.S., "Some Simple Economics of the Blockchain" MIT Sloan Research Paper No. 5191-16 (2016), available at: <https://ssrn.com/abstract=2874598> (accessed on Nov. 26, 2024).

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