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AIM & SCOPE

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EVOLUTION OF CRIMINAL LAW IN THE 20TH VS 21ST CENTURY

AUTHORED BY - MANSI PAL.

In the 20th century, criminal law's focus was mainly on codification and procedural safeguards, which strengthened due process and the fair trial before the courts. During that time, institutions were developed for international human rights and war crimes. In the 21st century, criminal law has become more dynamic- cybercrime, terrorism, financial frauds and for transnational offences, new frameworks have been established. Technology and globalisation transformed the collection of policing and evidence, whereas digital surveillance and data privacy became the major debate. Simultaneously, restorative justice and victim-centric approaches are gaining importance. Overall, the evolution of criminal law shows a shift from rigid codification to adaptive, tech-driven, and human rights-oriented frameworks.

Keywords: 20th-century criminal law, codification, procedural safeguards, due process, fair trial, cybercrime, victim-centric approaches.

The story of criminal law over the last century is really the story of how societies have tried to keep pace with change. In the 20th century, the world was scarred by wars, revolutions, and the birth of new democracies. Law became a shield against chaos: countries codified crimes, strengthened procedural safeguards, and insisted on principles like the presumption of innocence and protection against arbitrary detention. Courts across the globe began to speak the language of fairness, and international milestones such as the Nuremberg Trials and, later, the creation of the International Criminal Court, signaled that even the most powerful could be held accountable for crimes against humanity (Tribunal, 1947) embedding dignity.

The 21st century, however, has brought a different set of challenges. Crime no longer respects borders. Cyberattacks, terrorism, financial fraud, and organized crime networks operate in ways that traditional laws struggle to contain. Technology has changed both the nature of crime and the tools of enforcement: digital surveillance, forensic breakthroughs, and heated debates over data privacy now dominate the legal landscape. Globalization has blurred jurisdictional boundaries, forcing nations to cooperate through treaties and conventions. At the same time,

there is a growing recognition that justice must be more than punishment—it must also be restorative, victim-centered, and mindful of civil liberties.

Today, courts and legislatures face questions that would have been unimaginable a generation ago: How should artificial intelligence be used in policing? What happens when deepfakes distort reality? How do we handle digital evidence that crosses borders in seconds? These questions remind us that criminal law is not static—it is a living system, constantly evolving to balance security with dignity, and enforcement with fairness.

The journey of criminal law across the 20th and 21st centuries is not just about statutes and doctrines — it is about how societies have wrestled with justice, fairness, and the changing face of crime. What emerges is a dynamic interplay between philosophy, politics, and technology, each reshaping the way law protects both order and dignity. Overall trends: Studies across countries show that immigration is not linked to higher crime rates. Instead, immigrants often contribute to safer neighbourhoods through work, family, and community ties. In the 20th century, criminal law was largely about consolidation. Nations codified offenses, refined procedures, and strengthened safeguards to protect individuals against arbitrary power. Colonial legacies continued to shape many systems — the Indian Penal Code of 1860, for instance, remained the backbone of Indian criminal jurisprudence well into the late century. This was also the era when due process rights and fair trial guarantees became central. The aftermath of two World Wars marked a turning point: the Nuremberg and Tokyo Trials introduced the radical idea that individuals — not just states — could be held accountable for crimes against humanity. The adoption of the Universal Declaration of Human Rights (1948) and the European Convention on Human Rights (1950) reinforced this shift, embedding dignity and liberty into criminal justice frameworks worldwide (Assembly, 1948). In the United States, the Warren Court expanded constitutional protections for defendants, ensuring that fairness was not just an ideal but a lived reality. In Europe, privacy and dignity-based protections gained prominence (Brandeis, 1890), offering a contrast to America’s emphasis on free speech and procedural fairness.

The 21st century brought new challenges. Crime no longer respected borders, and technology transformed both criminal activity and enforcement. Scholars like Susan Brenner and Orin Kerr highlighted how cybercrime exposed the inadequacy of traditional doctrines of jurisdiction and evidence (Brenner, 2009). Terrorism, especially after 9/11, reshaped criminal law: legislation

such as the USA PATRIOT Act prioritized national security, sparking fierce debates about surveillance and civil liberties.

In India, the Supreme Court's landmark judgment in *K.S. Puttaswamy v. Union of India* (2017) recognized privacy as a fundamental right, reshaping the constitutional framework for criminal law in the digital era (*K.S. Puttaswamy v. Union of India*, 2017). Globally, courts and legislatures now grapple with questions unimaginable a generation ago: How should artificial intelligence be used in policing? What happens when deepfakes distort reality? How do we handle digital evidence that crosses borders in seconds?

Contemporary scholarship emphasizes that criminal law is no longer only punitive. Restorative justice and victim-centric approaches are gaining ground, focusing on reconciliation and reintegration rather than retribution. Across Europe and Asia, reforms such as victim compensation schemes and community-based sentencing reflect this shift. At the same time, critical criminology warns against over-criminalization, mass incarceration, and the disproportionate targeting of marginalized communities — urging a more balanced, humane approach.

The establishment of the International Criminal Court (ICC) in 2002 marked a new era of accountability. While the 20th century laid the groundwork, the 21st century has seen the ICC actively prosecute leaders and war criminals. Yet debates about selective enforcement and political bias remain unresolved. Meanwhile, emerging technologies — predictive algorithms, AI-driven policing, and digital surveillance — promise efficiency but raise ethical concerns about bias, privacy, and accountability. The rise of deepfakes and synthetic media complicates evidentiary standards, challenging courts to distinguish truth from manipulation.

The evolution of criminal law in the 21st century has opened up a new frontier of challenges. Unlike the 20th century, where codification and rights dominated the discourse, today's issues reflect the pressures of globalization, rapid technological innovation, and shifting expectations of justice. Each of these developments forces us to ask: how can law remain fair, humane, and effective in a world that changes faster than ever before?

Surveillance is everywhere — from CCTV cameras on street corners to biometric scanners at airports, and predictive policing algorithms that claim to foresee crime before it happens. These tools promise efficiency, but they also raise unsettling questions about privacy, misuse of personal data, and unchecked state power. Courts across the world are struggling to strike the

right balance: protecting citizens from harm while safeguarding their constitutional right to dignity and liberty.

Crime has gone digital. Hacking, identity theft, ransomware, and online fraud travel across borders in seconds, leaving traditional jurisdictional rules outdated. Treaties like the Budapest Convention on Cybercrime (2001) attempt to build cooperation (Europe, 2001), but enforcement remains patchy, hindered by differences in national laws and political priorities. The challenge is clear: law must learn to operate in cyberspace as seamlessly as crime does.

The shadow of 9/11 reshaped criminal law worldwide. Legislation such as the USA PATRIOT Act expanded state powers (Congress, 2001) of detention, surveillance, and prosecution in the name of national security. Yet these measures sparked fierce debates about racial profiling, indefinite detention, and the erosion of civil liberties. The dilemma remains: how do we protect nations without sacrificing the very freedoms that define them?

Modern criminal law is beginning to move beyond punishment. Restorative justice emphasizes healing, reconciliation, and reintegration. Victim compensation schemes, community-based sentencing, and mediation processes are gaining ground, reflecting a shift toward humanizing justice. This approach reminds us that law is not only about retribution — it is also about repairing broken relationships and restoring trust in society.

AI has entered the courtroom and the police station. Facial recognition, predictive crime mapping, and algorithmic risk assessments promise efficiency but raise profound ethical concerns. What if algorithms carry hidden biases? Who is accountable when machines make decisions about human liberty? Courts will soon need to set standards for AI-generated evidence and ensure safeguards against discrimination.

Truth itself is under threat. Deepfakes and synthetic media blur the line between reality and manipulation, creating risks of defamation, fraud, and political misinformation. Existing laws on defamation and fraud are being stretched to their limits, while new frameworks are urgently debated. Criminal law must now grapple with a world where seeing is no longer believing.

From human trafficking to drug cartels, money laundering to organized crime networks, transnational offenses thrive in a globalized world. These crimes demand cooperation across borders, harmonization of laws, and stronger extradition frameworks. Institutions like the

International Criminal Court (ICC) and regional conventions play a growing role, but enforcement remains uneven. The challenge is not just legal — it is political, requiring nations to put collective justice above narrow interests.

The Bhartiya Nyaya Sanhita (BNS) is designed to bring Indian criminal law into the realities of the digital age, moving away from colonial legacies and toward a framework that reflects contemporary society. One of its most important reforms is the replacement of the old sedition law with a new offense of “endangering the sovereignty, unity, and integrity of India,” which now explicitly covers acts committed through electronic communication and social media. The BNS also introduces twenty-one new offenses, including provisions that penalize sexual intercourse obtained through deceit, such as false promises of marriage made without any genuine intent to fulfil them. Reflecting a shift toward reformation rather than punishment, Section 4 allows community service as a penalty for minor infractions like petty theft, defamation, or public drunkenness, signalling a more humane approach to justice. At the same time, the law recognizes the seriousness of hate crimes by categorizing murder based on race, caste, or community as a distinct offense. It also provides a comprehensive definition of organized crime and terror-related activities, covering kidnapping, extortion, cybercrime, trafficking, and contract killings, with stringent penalties for crimes driven by syndicates. Taken together, these reforms show how the BNS seeks to balance accountability with compassion, modernizing criminal law while keeping human dignity at its core.

The Bhartiya Nagarik Suraksha Sanhita (BNSS) seeks to transform criminal procedure by making it more transparent, efficient, and humane. It ensures that both the accused and the victim receive copies of FIRs, charge sheets, and statements within fourteen days, giving them the ability to prepare fairly for trial. Summonses can now be served electronically, cutting down delays and paperwork, while arrested individuals are granted the right to inform a person of their choice, with arrest details displayed at police stations to strengthen accountability. To address the chronic problem of delays, BNSS allows trials and even convictions in the absence of the accused when necessary, and mandates summary trials for minor cases so justice is not endlessly postponed. At the same time, it introduces protections for vulnerable groups: rape survivors’ statements must be recorded through audio-video means to reduce trauma, and women, minors, the elderly, and persons with disabilities are exempted from attending police stations, ensuring dignity and accessibility. In essence, BNSS is not just about procedure—it is about reshaping criminal justice into a system that is faster, fairer, and more compassionate.

The Bhartiya Sakshya Adhiniyam (BSA) brings Indian evidentiary law into the digital age by giving electronic records and digital evidence the same legal weight as traditional documents. Emails, digital signatures, and scanned copies are now recognized as valid proof, reflecting the way communication and transactions happen in modern society. The Act also broadens what can be admitted in court, allowing mechanically reproduced copies, counterparts against non-executors, and even oral accounts of documents to be treated as legitimate evidence. To make justice more efficient, the BSA limits courts to only two adjournments, requires charges to be framed within sixty days of the first hearing, and mandates that judgments in criminal trials be delivered within forty-five days of conclusion. These measures are designed to cut down delays, reduce backlog, and ensure that justice is not just promised but delivered on time. Taken together, the reforms under the Bhartiya Nyaya Sanhita (BNS), Bhartiya Nagarik Suraksha Sanhita (BNSS), and Bhartiya Sakshya Adhiniyam (BSA) represent a major shift in Indian criminal law. The BNS modernizes substantive provisions with new offenses and reformatory punishments, the BNSS strengthens procedures and victim rights, and the BSA updates evidentiary rules for a digital society. Collectively, they mark India's move away from colonial-era codes toward a justice system that is adaptive, victim-centric, and focused on timely, fair outcomes.

The journey of criminal law from the 20th to the 21st century is not just a legal evolution — it is a reflection of how humanity itself has changed. The 20th century was an era of codification and safeguards, born out of global conflicts, decolonization, and the rise of constitutional democracies. It was a time when law became a shield against arbitrary power, embedding due process rights and fair trial guarantees into the heart of justice. International milestones like the Nuremberg Trials and the European Convention on Human Rights reminded the world that dignity must never be sacrificed, and that even the most powerful could be held accountable for crimes against humanity. Though largely retributive, focused on deterrence and punishment, this era laid the foundation for rights-based jurisprudence and international cooperation.

The 21st century, however, has brought challenges that earlier generations could scarcely imagine. Globalization and digitization have created new forms of crime — cyberattacks, terrorism, transnational fraud, and organized crime networks that operate across borders. Criminal law today must confront digital surveillance, artificial intelligence, predictive policing, and synthetic media, while still safeguarding privacy and civil liberties. The emphasis

has shifted toward restorative justice and victim-centric approaches, reflecting a deeper understanding that justice is not only about punishment but also about healing, reconciliation, and protecting democratic freedoms. Institutions like the International Criminal Court and conventions on cybercrime highlight the growing need for collective responses to global threats, reminding us that justice in the modern world is a shared responsibility.

India's recent reforms — the *Bhartiya Nyaya Sanhita* (BNS), *Bhartiya Nagarik Suraksha Sanhita* (BNSS), and *Bhartiya Sakshya Adhiniyam* (BSA) — embody this transformation. The BNS modernizes substantive law by redefining sedition, introducing new offenses, and recognizing community service as a reformatory punishment. The BNSS strengthens procedural safeguards, ensures transparency, and prioritizes victim rights, while the BSA updates evidentiary rules to embrace digital records and enforces strict timelines to reduce judicial backlog. Together, these reforms mark India's decisive move away from colonial codification toward a justice system that is digitally adaptive, victim-centric, and efficiency-driven (India, 2023).

In essence, the comparative evolution of criminal law shows a clear shift: from rigid codification and retributive justice in the 20th century to adaptive, technology-driven, and rights-sensitive frameworks in the 21st century. The challenge ahead lies in ensuring that criminal law remains responsive to emerging threats without losing sight of its soul — fairness, dignity, and democratic freedom. The future of criminal law will not be measured only by its ability to punish or deter, but by its capacity to reform, rehabilitate, and uphold justice in a rapidly changing world.

Ultimately, criminal law must remain more than a set of rules — it must be a living promise to society: that even in the face of new crimes and technologies, justice will remain humane, rights will remain protected, and dignity will never be compromised.