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The Future Architecture of Criminal Law: Redefining Culpability and Jurisdiction from Neuro-Criminology to Planetary Ecocide

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ABSTRACT

The advent of the twenty-first century has precipitated an ontological crisis within the traditional architecture of criminal law. Historically anchored in the foundational pillars of individual moral culpability (mens rea) and strict territorial jurisdiction, contemporary penal jurisprudence is increasingly ill-equipped to address the unprecedented challenges posed by rapid technological advancement and systemic environmental degradation. This article critically examines the shifting paradigms of criminal liability across two distinct frontiers: the internal erosion of human agency and the external expansion of spatial jurisdiction. By analyzing the nascent fields of neuro-criminology and algorithmic predictive policing, the study investigates how structural brain imaging and machine learning are challenging the classical legal presumption of free will, forcing a precarious transition from retributive justice to pre-emptive, biological, and risk-based models of culpability. Concurrently, the paper addresses the dissolution of traditional terrestrial boundaries by evaluating the jurisdictional voids inherent in extra-terrestrial space crimes and the urgent normative imperative to codify planetary ecocide as a strict liability international offense. Adopting a rigorous doctrinal and analytical methodology, this research synthesizes emerging legal theories, international frameworks, and contemporary moral debates surrounding decriminalization and genetic manipulation. The central thesis argues that the existing legal architecture cannot merely be amended; it must be fundamentally reconstructed. The article concludes that securing justice in future decades demands a recalibrated jurisprudential model, one that mandates neuro-algorithmic transparency to safeguard the constitutional presumption of innocence, while simultaneously establishing a robust framework of “Planetary Jurisdiction” to prosecute transnational and extra-terrestrial harms.

Keywords: Ecocide, Mens Rea, Neuro-Criminology, Planetary Jurisdiction, Predictive Policing

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I. INTRODUCTION

The classical architecture of criminal jurisprudence is historically anchored in two foundational pillars: the internal assessment of individual moral culpability (*mens rea*) and the external delineation of strict territorial jurisdiction.¹ Rooted in Enlightenment ideals of absolute free will and Westphalian state sovereignty, this traditional framework evaluates criminal liability retrospectively, penalizing voluntary acts (*actus reus*) committed within defined geographical borders. However, the rapid acceleration of twenty-first-century technological and environmental frontiers has precipitated an ontological crisis within this established paradigm.

Today, criminal law confronts a dual expansion that renders traditional statutes increasingly obsolete. Internally, the advent of neuro-criminology and algorithmic predictive policing challenges the classical presumption of autonomous human agency, forcing jurisprudence to grapple with biological determinism and pre-emptive assessments of guilt. Externally, the escalating reality of transnational climate degradation and the commercialization of outer space dissolve terrestrial boundaries, exposing severe jurisdictional voids. Securing justice in the forthcoming decades requires more than mere reactive statutory amendments; it demands a proactive, fundamental reconstruction of penal philosophy to anticipate future crimes before they materialize.²

This article systematically critiques this shifting architecture. Following a review of the existing literature, the research gap and the methodology, the study proceeds across three critical frontiers. Section II analyses how neuro-criminology destabilizes the doctrine of *mens rea*. Section III examines the constitutional friction generated by predictive policing and algorithmic guilt. Section IV evaluates the jurisdictional expansion necessary to prosecute planetary ecocide and extra-terrestrial offenses. Section V concludes by proposing a recalibrated legal model of “Planetary Jurisdiction” integrated with strict neuro-algorithmic transparency.

A. Review of Literature

The contemporary discourse on the future of criminal law is largely bifurcated into discrete legal silos, dealing independently with biological determinism, technological surveillance, and environmental jurisprudence. A comprehensive review of this literature reveals significant theoretical advancements yet exposes a critical lack of jurisprudential synthesis.

In the realm of neuro-criminology, scholars have extensively debated the friction between structural brain abnormalities and the classical legal construct of free will. Literature mapping

¹ JEROME HALL, *GENERAL PRINCIPLES OF CRIMINAL LAW* 70 (2d ed. 1960).

² See generally ANDREW ASHWORTH, *PRINCIPLES OF CRIMINAL LAW* 85 (6th ed. 2009).

the neurobiological roots of violence suggests that cognitive deficits fundamentally compromise an individual's capacity to form mens rea.³ Proponents of "neurolaw" argue that as functional magnetic resonance imaging (fMRI) reveals the mechanical nature of human decision-making, the retributive justification for punishment becomes ethically untenable, necessitating a shift toward rehabilitative or preventative quarantine models.⁴ However, mainstream criminal jurisprudence remains highly sceptical of neuro-determinism, viewing it as a sophisticated threat to the foundational premise of moral agency.

Simultaneously, literature on algorithmic justice and predictive policing scrutinizes the shift from retrospective prosecution to pre-emptive intervention. Legal technologists have rigorously documented how big data and machine learning algorithms calculate criminality based on spatial risk and demographic correlations rather than individualized suspicion.⁵ This transition introduces severe constitutional friction. Scholars emphasize that predictive policing criminalizes statistical probability, thereby eroding the presumption of innocence and embedding systemic biases into the very architecture of law enforcement.

On the external frontier, environmental and international law scholars have championed the criminalization of planetary harm. The campaign to recognize "ecocide" as the fifth international crime against peace highlights the inadequacy of domestic tort law and traditional state-centric jurisdictions to address catastrophic, transnational environmental destruction.⁶ Similarly, emerging scholarship in "astrojurisprudence" evaluates the Outer Space Treaty of 1967, noting that the impending commercialization of space exposes severe jurisdictional voids regarding criminal acts committed beyond Earth's atmosphere.⁷

B. The Research Gap

While existing literature thoroughly dissects these frontiers in isolation, a profound research gap remains there is an absence of a unified jurisprudential framework that simultaneously addresses the internal erosion of culpability (via neuro-science and algorithms) and the external expansion of jurisdiction (via climate and space). Current scholarship treats the algorithmic disruption of mens rea and the transnational challenge of planetary ecocide as distinct legal phenomena. This article bridges that gap by asserting that these are symptomatic of the same

³ ADRIAN RAINE, *THE ANATOMY OF VIOLENCE: THE BIOLOGICAL ROOTS OF CRIME* 112 (2013).

⁴ Nita A. Farahany, *Neuroscience and Behavioral Genetics in US Criminal Law: An Empirical Analysis*, 2 JOURNAL OF LAW AND THE BIOSCIENCES 485 (2015).

⁵ ANDREW GUTHRIE FERGUSON, *THE RISE OF BIG DATA POLICING: SURVEILLANCE, RACE, AND THE FUTURE OF LAW ENFORCEMENT* 65 (2017).

⁶ POLLY HIGGINS, *ERADICATING ECOCIDE: LAWS AND GOVERNANCE TO PREVENT THE DESTRUCTION OF OUR PLANET* 45 (2010).

⁷ FRANS VON DER DUNK, *ADVANCED INTRODUCTION TO SPACE LAW* 88 (2020).

structural crisis. The existing architecture of criminal law is collapsing under the weight of future technologies and planetary realities, necessitating a holistic reconstruction that redefines both human agency and spatial boundaries.

C. Research Methodology

This study adopts a doctrinal and analytical research methodology to critically evaluate the shifting paradigms of criminal culpability and jurisdiction.⁸ The research relies predominantly on primary legal sources, including international instruments such as the Rome Statute of the International Criminal Court and the Outer Space Treaty of 1967, alongside domestic statutory frameworks and landmark judicial pronouncements concerning liability and technological integration. These primary sources are corroborated by secondary data, comprising peer-reviewed legal journals, authoritative treatises, and interdisciplinary reports on neuro-criminology and machine learning.

The scope of this research is strictly confined to the theoretical frameworks of mens rea and spatial jurisdiction. It explicitly excludes granular procedural analyses of specific national courts, focusing instead on the macro-level jurisprudential reconstruction necessitated by technological determinism and ecological crises.

D. Research Questions and Hypotheses

To systematically address the ontological shifts within criminal law, this article investigates the following primary research questions:

To what extent do neuro-criminological diagnostics and algorithmic predictive policing dismantle the traditional legal constructs of mens rea and the presumption of free will?

How must international and domestic jurisdictional frameworks structurally evolve to prosecute emerging transnational harms, specifically planetary ecocide and extra-terrestrial offenses?

Based on the preceding literature review, this study tests the following hypotheses:

H1: The integration of neuro-criminological evidence and predictive algorithms necessitates a foundational shift in criminal justice, forcing a transition from a retributive model based on past intent to a preventative model predicated on biological and computational risk.

H2: Traditional territorial jurisdiction is structurally inadequate for regulating future ecological and spatial harms. Effectively prosecuting ecocide and space crime requires the formal establishment of a universally binding framework of “Planetary Jurisdiction.”

⁸ For the parameters of doctrinal legal research, see generally S.N. Jain, *Doctrinal and Non-Doctrinal Legal Research*, 17 JILI 516 (1975).

II. THE INTERNAL FRONTIER: NEURO-CRIMINOLOGY AND THE EROSION OF MENS REA

The architectural foundation of criminal liability is fundamentally premised on the doctrine of *actus non facit reum nisi mens sit rea*, that an act does not make a person guilty unless the mind is also guilty. This maxim presupposes the existence of autonomous human agency, asserting that individuals possess the free will to choose between lawful and unlawful conduct. However, the rapid evolution of neuro-criminology, propelled by functional magnetic resonance imaging (fMRI) and advanced neuro-diagnostics, has begun to systematically dismantle this classical presumption of free will, proposing instead a paradigm of biological determinism.

A. The Doctrinal Shift: Brain Imaging and the Illusion of Agency

Neuro-criminological research posits that criminal behavior is frequently the manifestation of structural or functional brain abnormalities, rather than an autonomous moral failing. Extensive neurological studies demonstrate that severe deficits in the prefrontal cortex, the region responsible for executive function, impulse control and ethical reasoning, or hyper-reactivity in the amygdala, correlate heavily with impulsive aggression and violent psychopathy.⁹

From a jurisprudential perspective, this introduces a profound ontological crisis. If a violent act is the predictable, mechanical outcome of a neuro-chemical imbalance or an organic brain lesion, the classical construct of a “guilty mind” becomes legally fragile. Neuro-determinism suggests that the offender did not “choose” to commit the crime in a legally significant sense; rather, their neurological architecture dictated the behavior.¹⁰ This internal frontier forces criminal law to confront an uncomfortable reality: the traditional concept of *mens rea* may be an outdated heuristic that fails to accurately reflect the mechanical nature of human cognition.

B. The Insanity Defense 2.0: From Cognitive Incapacity to Structural Deficits

The most immediate legal battlefield for neuro-criminology is the evolution of the insanity defense. Historically, criminal law has relied on the M’Naghten Rules of 1843, a strict cognitive test that excuses liability only if the accused was incapable of knowing the nature of the act or that it was wrong.¹¹ In contemporary Indian jurisprudence, Section 22 of the Bharatiya Nyaya

⁹ Raine, *supra* note 3, at 145.

¹⁰ Stephen J. Morse, *Brain Overclaim Syndrome and Criminal Responsibility: A Diagnostic Note*, 3 OHIO STATE JOURNAL OF CRIMINAL LAW 397 (2006).

¹¹ *Daniel M’Naghten’s Case*, (1843) 10 Cl & Fin 200, 8 Eng. Rep. 718.

Sanhita, 2023 (mirroring the erstwhile Section 84 of the Indian Penal Code), remains rigidly tethered to this nineteenth-century cognitive threshold of “unsoundness of mind.”¹²

Neuro-criminology exposes the inadequacy of this standard. Modern brain science reveals that an accused may perfectly understand the illegality of an act (thereby failing the M’Naghten cognitive test) but remain entirely unable to control their impulses due to a volitional incapacity rooted in a frontal lobe defect. The existing statutory architecture provides no substantive defense for structural volitional deficits, thereby punishing individuals for biological impulses they lacked the neurological capacity to suppress. The future architecture of criminal law must transcend cognitive tests, demanding a modernized “Insanity Defense 2.0” that accommodates neuro-biological determinism and structural incapacity.

C. Culpability vs. Determinism: The Ethical Paradox

The integration of neuro-scientific evidence into the courtroom introduces a precarious ethical paradox often termed the “double-edged sword” of neuro-law. On one hand, neuro-imaging can be introduced by the defense as mitigating evidence, arguing that a biological predisposition reduces moral culpability and warrants rehabilitative treatment rather than retributive incarceration.¹³

Conversely, the prosecution can weaponize the exact same neuro-criminological data as an aggravating factor. If an offender’s violence is deeply encoded in their neurological or genetic makeup, the state may argue that the individual is fundamentally incorrigible and poses a permanent statistical threat to society. This reasoning catalyzes a dangerous shift from retrospective punishment (penalizing past conduct) to pre-emptive quarantine (incarcerating based on future biological risk).¹⁴ Thus, as neuro-criminology erodes the classical understanding of mens rea, it risks transforming the criminal justice system from an institution of moral judgment into a mechanism of biological risk management.

III. THE ALGORITHMIC FRONTIER: PREDICTIVE POLICING AND PRE-EMPTIVE GUILT

While neuro-criminology challenges the internal biological capacity for mens rea, the algorithmic frontier challenges the temporal nature of criminal liability itself. The rapid integration of Artificial Intelligence (AI) and machine learning into law enforcement has

¹² The Bharatiya Nyaya Sanhita, 2023, § 22 (India). The provision requires that the person is incapable of knowing the nature of the act, maintaining the strict cognitive requirement.

¹³ Farahany, *supra* note 4, at 485-490.

¹⁴ See generally NEUROSCIENCE AND THE LAW: BRAIN, MIND, AND THE SCALES OF JUSTICE 88 (Brent Garland ed., 2004).

catalyzed a profound jurisprudential shift: moving from retrospective investigation-determining who committed a crime-to predictive policing, which attempts to calculate who will commit a crime.¹⁵ This transition from actualized harm to calculated risk generates severe constitutional friction, fundamentally threatening the presumption of innocence and institutionalizing systemic bias.

A. The Mechanics of Prediction: Spatial and Individual Risk

Predictive policing operates on the premise that crime, much like weather patterns or consumer behavior, is statistically predictable if sufficient historical data is analyzed. Modern algorithmic systems process vast datasets-including past arrest records, socio-economic demographics, social media activity, and geolocation tracking-to generate two primary outputs: spatial predictions (identifying geographical “hotspots” where crime is imminent) and individual risk assessments (scoring the statistical likelihood of a specific person re-offending or becoming involved in criminal activity).¹⁶

The jurisprudential danger lies in the algorithmic logic. Machine learning models do not establish causation; they map correlation. If an individual shares a demographic profile, spatial proximity, and social network with historically convicted offenders, the algorithm assigns them a high-risk score. Consequently, the legal threshold for police intervention is no longer tethered to a specific, individualized suspicion of an *actus reus*, but rather to a computational probability generated by a machine.

B. The Presumption of Innocence and Constitutional Friction

The bedrock of criminal justice is the presumption of innocence, ensuring that the state cannot impose punitive measures without proving guilt beyond a reasonable doubt for a specific, past act. Predictive policing structurally subverts this guarantee. When law enforcement pre-emptively targets an individual based on an algorithmic risk score, the state is effectively treating them as a “pre-criminal.”

Within Indian constitutional jurisprudence, this algorithmic pre-emption directly collides with Article 21 of the Constitution, which protects life and personal liberty from arbitrary state action.¹⁷ If an individual is subjected to heightened surveillance, preventative detention, or aggressive interrogation not because of what they have done, but because of what an algorithm

¹⁵ Ferguson, *supra* note 5, at 62.

¹⁶ CATHY O’NEIL, *WEAPONS OF MATH DESTRUCTION: HOW BIG DATA INCREASES INEQUALITY AND THREATENS DEMOCRACY* 85 (2016).

¹⁷ *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1. The Supreme Court’s recognition of privacy as a fundamental right underscores the constitutional limits on arbitrary algorithmic surveillance.

predicts they might do, the constitutional requirement for procedural fairness is shattered. The burden of proof is implicitly inverted; the individual is forced to demonstrate their innocence against a machine's mathematical prophecy.

C. Ethical Dilemmas: Algorithmic Opacity and Criminalizing Correlation

The ethical crisis of predictive policing is compounded by the “black box” nature of proprietary AI systems. The algorithms utilized by state police departments are frequently shielded by corporate trade secrets, preventing independent judicial scrutiny of their code, weighting mechanisms, and training data.

Furthermore, algorithms are trained on historical data generated by human institutions, meaning they invariably inherit and amplify historical prejudices. In the socio-legal context of the Global South, where historical policing has often disproportionately targeted marginalized communities, Denotified Tribes, and specific urban demographics, feeding this biased data into an AI creates a feedback loop of institutional prejudice.¹⁸ The algorithm predicts higher crime rates in marginalized areas because those areas have been historically over-policed; the police then heavily patrol those areas based on the AI's recommendation, generating more arrests that further “validate” the algorithm's biased premise. Ultimately, the algorithmic frontier risks codifying structural inequality into the very mathematics of the criminal justice system, punishing individuals for their socio-economic correlations rather than their autonomous criminal intent.

IV. THE EXTERNAL FRONTIER: ECOCIDE AND EXTRA-TERRESTRIAL JURISDICTION

While neuro-criminology and algorithmic policing destabilize the internal pillar of mens rea, the external pillar of criminal law, strict territorial jurisdiction, is collapsing under the weight of globalization and technological expansion. Classical criminal jurisprudence is intrinsically Westphalian; it operates on the premise that a sovereign state exercises penal authority over acts committed within its clearly defined geographical borders. However, the emergence of transnational climate destruction and the rapid commercialization of outer space render this terrestrial, state-centric architecture fundamentally obsolete.

¹⁸ See generally Chinmayi Arun, *AI and the Global South: Designing for Other Worlds*, in THE OXFORD HANDBOOK OF ETHICS OF AI 589, 600 (Markus D. Dubber et al. eds., 2020).

A. Planetary Harm and the Criminalization of Ecocide

The most pressing jurisdictional challenge of the twenty-first century is the catastrophic degradation of the global environment. Historically, environmental harm has been relegated to the domain of civil torts, administrative fines, or fragmented regulatory compliance. This regulatory paradigm has proven catastrophically inadequate for deterring mass ecological destruction, treating environmental damage as a mere economic externality rather than a profound moral and criminal wrong.¹⁹

In response, international legal scholars and environmental advocates are driving a movement to codify “ecocide”, defined as unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment-as the fifth international crime against peace under the Rome Statute of the International Criminal Court (ICC).²⁰ Elevating ecocide to the status of genocide or crimes against humanity requires a radical architectural shift. It forces criminal law to protect an entity (the planetary ecosystem) rather than a specific human victim, and it necessitates the expansion of universal jurisdiction, allowing any sovereign state to prosecute offenders of planetary harm, regardless of where the ecological destruction physically occurred.

B. The Corporate Attribution Paradigm

Prosecuting ecocide introduces severe structural friction regarding the attribution of criminal liability. The primary drivers of planetary harm are not individual actors, but complex multinational corporations operating across fragmented jurisdictions. Traditional international criminal law is designed to prosecute individual natural persons (e.g., warlords or dictators) and historically struggles to pierce the corporate veil to hold a fictitious legal entity criminally liable.²¹

If the architecture of criminal law is to survive the environmental crisis, it must abandon the strict anthropocentric model of culpability. Future jurisprudence requires a robust framework for corporate criminal liability at the international level, establishing objective standards of mens rea where a corporation’s collective structural negligence or “willful blindness” to environmental destruction triggers severe penal sanctions, including the mandatory dissolution of the corporate entity and the imprisonment of executive boards.

¹⁹ Higgins, *supra* note 6, at 62.

²⁰ See generally PHILIPPE SANDS ET AL., INDEPENDENT EXPERT PANEL FOR THE LEGAL DEFINITION OF ECOCIDE: COMMENTARY AND CORE TEXT (Stop Ecocide Foundation 2021).

²¹ ANDREW CLAPHAM, HUMAN RIGHTS OBLIGATIONS OF NON-STATE ACTORS 245 (2006).

C. Astrojurisprudence and Jurisdictional Voids

Concurrently, human expansion beyond Earth's atmosphere exposes the fragility of terrestrial jurisdiction. The governing framework for space law, primarily the Outer Space Treaty of 1967, was drafted during the Cold War and assumes that space exploration is an exclusively state-driven enterprise.²² Under Article VIII of the Treaty, jurisdiction over a space object and its personnel is determined by the state of registry.

However, the contemporary era is defined by commercial spaceflight (e.g., SpaceX, Blue Origin) and the imminent deployment of private, multinational space stations. If a criminal act, ranging from corporate sabotage to homicide-occurs on a privately-owned commercial module populated by a multi-national crew in low Earth orbit, the traditional reliance on the "flag state" creates severe jurisdictional voids and competing extradition claims.²³ Resolving this requires shifting from nationality-based jurisdiction to a new framework of "Astro-Jurisdiction," establishing an international space tribunal with pre-emptive authority over all human conduct occurring beyond the Kármán line.

Ultimately, whether confronting the destruction of the Earth's biosphere or regulating conduct in the vacuum of space, the strict adherence to territorial borders is a jurisprudential fiction that modern criminal law can no longer afford to maintain.

V. CONCLUSION AND FUTURE OUTLOOK

The architecture of criminal law has reached a critical structural threshold. For centuries, the penal system has operated on the twin jurisprudential assumptions of absolute human autonomy and impenetrable Westphalian borders. However, as demonstrated throughout this study, the rapid acceleration of neuro-criminology, predictive algorithms, transnational environmental degradation, and extra-terrestrial commercialization has rendered these classical pillars structurally obsolete.²⁴

Addressing the first research question regarding the internal frontier of culpability, this article demonstrates that neuro-criminological diagnostics and algorithmic predictive policing severely dismantle the traditional constructs of mens rea and the presumption of free will. By shifting the focus from human autonomy to biological and mathematical determinism, this validates the first hypothesis (H1): the integration of functional brain imaging and machine learning is forcing an inevitable transition from a retributive model based on past autonomous

²² Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, Jan. 27, 1967, 610 U.N.T.S. 205.

²³ von der Dunk, *supra* note 7, at 88.

²⁴ See generally UPENDRA BAXI, THE FUTURE OF HUMAN RIGHTS 145 (3d ed. 2008).

intent to a preventative model predicated on biological and computational risk. If the legal system stubbornly clings to archaic cognitive tests of insanity and ignores the reality of structural neurological deficits, it risks penalizing biological inevitability rather than moral choice. Simultaneously, the uncritical adoption of algorithmic predictive policing threatens to invert the constitutional presumption of innocence, replacing individualized suspicion with mathematical correlation. To prevent the erosion of fundamental liberties, domestic legal frameworks must urgently codify mandates for “Neuro-Algorithmic Transparency.” This ensures that machine-generated evidence and biological diagnostics are subjected to rigorous, adversarial judicial scrutiny before any deprivation of liberty occurs.

Addressing the second research question on the external frontier, this study concludes that traditional, state-centric Westphalian territorial jurisdiction is fundamentally inadequate for prosecuting emerging transnational harms. To effectively prosecute planetary ecocide and extra-terrestrial offenses, domestic and international frameworks must be fundamentally reconstructed. This confirms the second hypothesis (H2): effectively regulating future ecological and spatial harms requires the formal establishment of a universally binding framework of “Planetary Jurisdiction.”²⁵ This necessitates amending the Rome Statute to recognize ecocide as a supreme international crime and establishing specialized, transnational tribunals capable of piercing the corporate veil to hold multinational entities strictly accountable for global ecological destruction and extra-terrestrial offenses.

Ultimately, the future of criminal law cannot be secured through reactive, piecemeal statutory amendments; it demands a holistic philosophical reconstruction. By meticulously redefining the internal parameters of human agency and expanding the external spatial horizons of legal accountability, modern jurisprudence must evolve from a historical mechanism of state retribution into a proactive, resilient architect of planetary survival.

²⁵ Philippe Sands, *Climate Change and the Rule of Law: Adjudicating the Future in International Law*, 28 JOURNAL OF ENVIRONMENTAL LAW 19 (2016).