

INSANITY DEFENCE UNDER THE INDIAN CRIMINAL JUSTICE SYSTEM

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ABSTRACT

The "Insanity Defence" within the framework of the Indian Legal System serves as a protective measure for individuals accused of criminal offenses, especially when they lack the mental capacity to understand the nature of their actions or differentiate between right and wrong. This defence aligns with the legal principle "*Actus non facit reum nisi mens sit rea*," which emphasizes that for an action to be deemed unlawful, it must be accompanied by a guilty mind. Consequently, punishing individuals who are not accountable for their actions would contravene fundamental human rights enshrined in the Constitution of India. To delve deeper into the concept of the insanity defence, it's essential to trace its origins and development within English law and its subsequent impact on Indian legal statutes. It's crucial to understand that insanity defence isn't merely a matter of suffering from a mental illness; rather, it requires a demonstration that the accused lacked the mental capacity to comprehend the consequences of their actions. Thus, the burden of proof lies with the accused, who must provide compelling evidence to establish their state of insanity, akin to the standard of "*preponderance of the evidence*" often seen in civil cases. This paper seeks to analyze the intricacies of insanity within the legal framework and how it has evolved into a potential loophole within the current judicial system.

INTRODUCTION

In India's criminal justice system, insanity defence is controversial. The mental illness defence, often used in criminal prosecutions, exempts defendants who claim their conduct were affected by transient mental states or permanent psychiatric conditions. This argument claims that the defendant was too mentally ill to understand their conduct or discern right from wrong, absolving them of criminal guilt. Accountability is central to our views of human dignity, fairness, and human nature. Punishing unjustified people violates their Indian Constitutional rights. If someone can't defend themselves in court, it violates due process and natural justice. The defence of insanity protects mentally ill criminals who were unable to appreciate the repercussions of their conduct, maintaining their fundamental human rights.¹

¹ Gandhar, Rimzhim, and Sakshi Agarwal. "Insanity defence: A madness." *International Journal of Advanced Research in Management and Social Sciences* 10, no. 10 (2021): 1-19.

The legal maxim "*Actus Non-Facit Reum Nisi Mens Sit Rea*" underscores the necessity of a guilty mind, or mens rea, for an act to be deemed criminal. However, the insanity defence operates on the premise that individual's incapable of appreciating the nature of their actions due to mental impairment should be protected from legal repercussions. It's important to note that insanity defence is a legal construct rather than a clinical one; thus, the mere presence of a mental illness is not sufficient to establish insanity. The burden of proof lies with the defendant to substantiate their claim of insanity with compelling evidence, often excusing individuals from punishment if their incapacity to commit the crime is established.²

In many civilized nations, including India, legislation acknowledges the validity of the insanity defence. Section 84 of the IPC, derived from the "McNaughten Rule," specifically addresses the actions of individuals of unsound mind. Despite discussions initiated by the Law Commission of India, as evidenced in its 42nd report, no amendments have been made to Section 84 of the IPC thus far.

HISTORY PERSPECTIVE

While the idea of claiming insanity as a defence has been around for a long time, the notion really took root in judicial systems within the previous three centuries. Several methods for determining whether a person may be considered legally insane have evolved throughout the years. The Insane Delusion test, the Wild Beast test, and evaluations of moral reasoning were all part of this battery of exams. The McNaughten rule, a landmark decision in this field, was based on the concepts established by these previous tests.

"*R v. Arnold (1724)*" was the first case to address the insanity law; it included the trial of Edward Arnold, who was accused of attempting to murder Lord Onslow. The accused was later determined to have a mental ailment. Tracy, J. observed:

"Since the accused was under the affiliation of God, couldn't differentiate between good and unlawful, and wasn't cognizant of what he did, although he committed a criminal act, he would still not be liable for any offence against any law whatsoever. Therefore, according to the previously mentioned case, a person can request protection if, due to the insanity of his mind, he is incapable of distinguishing between evil and good and doesn't apprehend the nature of the act perpetrated by him. This test is also recognised as the Wild Beast Test."

Hadfield, which occurred in 1800 and involved a military captain who was prosecuted for attempting to kill King George III after being demoted for insanity, set the second benchmark. The defence team for Hadfield, led by Lord Thomas Erskine, argued that Hadfield was innocent because his mental illness had

² Biju, Beleena, and Shubhra Shrivastava. "Plea of Insanity as a Defence." *Supremo Amicus* 15 (2020): 81.

driven him to behave irrationally. Erskine argued that Hadfield's crime was caused by his illogical thinking, which are considered a hallmark of insanity. This approach became known as the "*Insane Delusion Test*."³

Subsequently, the third test was developed in Bowler's case in 1812. In this case, Judge Le Blanc emphasized the need for the court to determine whether the accused was capable of distinguishing between right and wrong or if they were under the influence of an illusion at the time of the offense. Following Bowler's case, courts placed greater emphasis on assessing the accused's ability to discern right from wrong. However, despite this development, the specifics of the test remained somewhat unclear.

INSANITY DEFENCE UNDER IPC

British common law has had a substantial impact on Indian law, although Indian statutes tend to take a more practical approach to solving problems. The Indian government began updating the insanity defence's legal foundation in 1860. A new provision in the IPC was drafted as a result of this effort. Addressing the idea of mental incapacity, Section 84 of the IPC focuses on the activities of those who are deemed to be mentally ill. The ideas set down in the landmark McNaughton case, a British House of Lords decision, are frequently invoked in this clause. The omission of the word "insanity" by the IPC's authors is an important point to notice, however. And so they used the more inclusive word "mental soundness," to include a larger range of mental health issues.⁴

Section 84 of the IPC: “Act of a Person of Unsound Mind”

Under Section 84 of the IPC, certain provisions dictate that an act committed by an individual who, due to unsoundness of mind at the time, was incapable of understanding the nature and consequences of their actions, and was unaware that their actions were against the law, shall not be deemed an offense.⁵

The key elements outlined within Section 84 of the IPC are as follows:

- The accused must have been suffering from unsoundness of mind at the time of the act.
- They must have been incapable of comprehending the nature of the act.
- The act committed must have been either morally wrong or contrary to legal statutes.
- In accordance with these criteria, the insanity is considered legal insanity, thus leading to potential acquittal of the accused.

³ Rawat, Nitika, and Devang Gupta. "An Analysis of the Defense Based on Insanity in a Criminal Trial." Issue 3 Int'l JL Mgmt. & Human. 4 (2021): 2108.

⁴ Rawat, Nitika, and Devang Gupta. "An Analysis of the Defense Based on Insanity in a Criminal Trial." Issue 3 Int'l JL Mgmt. & Human. 4 (2021): 2108.

⁵ Sainath, Sumedha, and Meher Mansi. "PLEA OF INSANITY IN CAPITAL PUNISHMENT CASES: AN INDIAN PERSPECTIVE." Commonwealth Law Review 7 (2021): 232.

It's important to note that while an act may be deemed "wrong," it may not necessarily be in violation of the law. Furthermore, the legal and medical definitions of insanity often diverge significantly, with not all forms of mental illness serving as sufficient grounds for legal excuse.

Modern criminal legislation operates under the premise that individuals are morally accountable for their actions. To establish criminal liability, two fundamental principles must be proven beyond a reasonable doubt, principles that are reflected in Section 84:

- "*Actus non facit reum nisi mens sit rea*" suggests that an act is not wrongful unless done with a guilty intent.
- "*Furiosi nulla voluntas est*" implies that individuals with mental disorders lack free will and thus cannot commit wrongful acts.

Since mens rea, or guilty intent, is absent in cases involving people with mental problems, Section 84 essentially absolves them of legal duties. To determine if a person's mental illness hinders their ability to establish the necessary intent for legal culpability, courts may consult with psychiatrists.

INSANITY DEFENCE: INTERNATIONAL PERSPECTIVE

In 1884, U.S. legislation introduced the "*Irresistible Impulse Test*," which provided a legal defence for individuals with a diseased mind or mental instability. This defence, recognized in English case law, was considered a lawful excuse. By 1967, this defence had become applicable in approximately 18 out of 51 states in the U.S.⁶

The "irresistible impulse" defence gained prominence in the case of Lorena Bobbitt in 1993. Bobbitt infamously cut off her husband's penis while he was asleep, citing a history of domestic violence and rape inflicted upon her by her husband. Her defence argued that she was unable to control her actions, despite being aware of the consequences, due to an irresistible impulse. This defence was employed for the first time in its original form by the state of Virginia, which ultimately found Bobbitt not guilty by reason of insanity, acknowledging her unstable mental state.

Insanity is recognized as a valid defence in English criminal law, although its fundamental meaning differs from medical definitions of insanity. The McNaughten Rules, established in the case of McNaughten, delineate the principles of insanity as follows:

⁶ Penney, Steven. "Impulse control and criminal responsibility: Lessons from neuroscience." *International Journal of Law and Psychiatry* 35, no. 2 (2012): 99-103.

- The presumption in legal proceedings is that the accused is mentally sound and accountable for their actions unless evidence proves otherwise.
- In order to successfully claim the insanity defense, it is necessary to show that the accused was operating under a deficiency of reasoning, often due to a mental illness, at the time the offense was committed.
- This can be evidenced by the accused's inability to understand the nature of their actions or to recognize that what they were doing was morally wrong.

POSITIVE & NEGATIVE ASPECTS OF INSANITY DEFENCE LAWS

When the accused's mental condition is established to the court, the insanity defence often results in the possibility of acquittal. What happens next, in terms of penalty or acquittal, depends heavily on the accused's mental state. For mentally challenged people in India, where being accused of a crime may lead to social humiliation and prejudice, this argument is a lifesaver. If this defence is employed effectively, the offender may be freed and found not guilty.

The insanity defence is crucial for mentally disabled people because it acknowledges their cognitive limits, similar to a child's who could not understand the repercussions of their acts. As a result, it is ethically wrong to punish someone with mental illness severely.

Furthermore, the purpose of the insanity argument is to avoid capital punishment for those who are legally considered crazy. Capital punishment is not justified because even if they admit guilt, they will not be able to completely understand the seriousness of their acts. Instead, it's possible that such circumstances call for less severe punishments.

Most insanity defence cases include an admission of guilt by the accused, who then claims they were unable to comprehend the gravity of their acts or know right from wrong. Here, the accused's mental state becomes crucial in determining whether the defence of insanity is successful or not.

The insanity defence is an important legal tool for those with mental illness, but it may also be used to get out of jail free. There are a lot of obstacles to overcome when trying to determine whether the defendant was mentally stable or not when the crime was committed. This is a subjective topic as the final decision is up to the judge's judgement.

A number of nations have chosen to do away with the insanity defence entirely due to worries about its abuse. These nations include Thailand, Germany, Argentina, and certain parts of England. The

fundamental foundations that the law was founded upon are undermined by the widespread abuse of this defence, which results in the release of dangerous offenders on the grounds of insanity.

There are substantial obstacles to establishing insanity and effectively using this argument. The burden of proof is on the defendant to prove legal insanity, in contrast to medical insanity, which may be simpler to prove. There is no assurance of acquittal or resolution for the accused, even if the defendant is able to prove their mental condition, since the insanity defence is ultimately up to the judges to accept. People who have valid claims of insanity are frequently wrongfully convicted and sentenced because it is difficult to meet the requirements laid forth in Section 84 of the IPC.

Also, the insanity argument can drive up trial costs. Expert witness testimony about the accused's mental condition may be costly for both the prosecution and the defence. Despite these efforts, insanity defence verdicts are still uncommon.

MYTHS REGARDING INSANITY DEFENCE

Movies often depict the insanity defence in a dramatic and exaggerated manner, contributing to various myths surrounding its prevalence and outcomes. However, reality often differs significantly from these portrayals. Here are some common misconceptions:

1. Contrary to popular belief, the insanity defence is not excessively utilized in criminal cases. Research indicates that only a small percentage of cases, around 1%, employ the insanity defence, and even fewer are successful. Despite this low utilization rate, there exists a misconception fueled by media portrayals that this defence is commonly employed.
2. There's a misconception that individuals acquitted on the grounds of insanity (NGRI) spend less time in confinement compared to convicted offenders. However, the reality is quite the opposite. NGRI acquittees often spend double the time in psychiatric hospitals compared to sane offenders for the same crime. Furthermore, even upon release, they may still be subject to strict supervision to prevent harm to themselves or others. Studies have shown that the general public vastly overestimates the rate of release for NGRI acquittees, with the majority actually being hospitalized for extended periods.
3. There's a widespread belief that in cases where the insanity defence is used, expert testimony is crucial to establish the presence of mental illness. However, there's skepticism about the objectivity of these experts, with concerns that they might be biased or influenced by the side that hires them. This issue came to the forefront after the Hinckley case, where John Hinckley Jr. shot President Ronald Reagan in 1981 in an attempt to impress actress Jodie Foster. Despite his actions,

he was found not guilty by reason of insanity. This raised questions about the reliability of psychiatric expert testimony, as it was perceived to sway the judge and jury towards sympathy for the defendant, potentially leading to incorrect verdicts.⁷

4. Instances of defendants feigning insanity do occur, but maintaining the facade becomes challenging as they are closely monitored post-NGRI verdicts. Psychiatrists observe and analyze their every action, ensuring thorough scrutiny. One common indicator of feigned insanity is when the individual's behavior doesn't align with the stereotypical portrayal of someone with mental illness.

INSANITY TESTS

McNaughten Insanity Test: -

One of the oldest tests utilized for assessing insanity, known as the McNaughton Rule, traces its origins back to England in 1843. This test owes its name to Daniel McNaughton, whose case served as the catalyst for its development. The intriguing backstory behind this test involves an attempted assassination of Sir Robert Peel, the Prime Minister of England, by McNaughton. McNaughton, under the delusion that Sir Robert was conspiring to kill him, attempted to shoot him but inadvertently struck his secretary, Edward Drummond, who later succumbed to his injuries. This incident sparked national astonishment when McNaughton was deemed not guilty by reason of insanity.⁸ The McNaughton Rule emerged as a response to the highly publicized case of Daniel McNaughton, whose attempt to assassinate Sir Robert Peel resulted in the accidental death of Edward Drummond. McNaughton's evident mental instability and the public outcry over his acquittal spurred the need for a standardized test to evaluate insanity in criminal proceedings.

Fundamentally, the McNaughton Rule gives more weight to the accused's mental capacity than their physical health. The purpose of this inquiry is to ascertain whether the offender had the mental capacity to understand the gravity of their conduct and to differentiate between right and wrong when the offence was committed. So, the basic idea behind the test is to figure out whether the defendant had a serious mental illness that made them irrational.

The central inquiry revolves around the defendant's ability to discern the moral and legal implications of their conduct. Were they cognitively impaired to the extent that they could not understand the

⁷ 525 F. Supp. 1342 (D.D.C. 1981)

⁸ “Queen v. McNaughten (2010) (McNaughten’s Case, 8 Eng. Rep. 718 [1843])”

wrongfulness of their actions? Did they have the capacity to appreciate the difference between morally acceptable and unacceptable behavior?

The McNaughton Rule requires proof that the defendant was sufficiently mentally ill at the time of the crime that they could not have understood the seriousness of their conduct or formed criminal intent. For this, it's necessary to look at the crime's context, the defendant's behavioural patterns, and their mental health history. Although it offers a framework for evaluating insanity, the McNaughton Rule's application may be intricate and open to interpretation. To correctly ascertain the defendant's mental condition and guilt, courts must consider several elements, one of which is the expert evidence of psychologists and psychiatrists.

There are differing interpretations of what constitutes "*wrong*" in the context of the insanity defense. One perspective is the notion of being "*legally wrong*," where the individual lacked awareness of the legality of their actions. Another viewpoint is being "*morally wrong*," indicating a lack of understanding regarding societal norms and acceptability of their behavior. Regardless of the specific definition applied, if there's any suspicion that evidence could be fabricated or the defendant could be attempting to conceal their actions, it suggests that they possessed the capacity and awareness regarding the nature of their criminal act. In such cases, it undermines their claim of insanity.⁹

THE IRRESISTIBLE IMPULSE TEST

In the 1887 decision of "*Parsons v. State*,"¹⁰ the Alabama Supreme Court was the first court to support this standard. The court in this instance stressed that the defendant's mental illness rendered him unable to discern between right and wrong, and as a result, he committed the crime. Because of this, the court determined that the defendant's insanity did not render him guilty, regardless of his knowledge of right and evil. This evaluation served as an extension of the McNaughten evaluation. This test was suggested because many individuals felt that additional data should be included when defining insanity. Several observers have argued that it is important to take into account both mental and physical details. Because of its more malleable requirements, this test is relatively simpler to prove than McNaughten's. However, several states have decided not to be considered anymore because of its declining popularity.

DURHAM TEST

This rule is also known as the "product test" or the "for" test. It originated from a significant case in the United States in 1954, known as "*Durham v. United States*."²¹ The court found that the defendant here is

⁹ "State v. Crenshaw 172 Conn. App. 526 (2010)"

¹⁰ 81 Ala.577, 2 So. 854 (1887)

immune from responsibility for any acts committed as a result of their mental disorder. The Durham court's sitting judge, Judge David L. Bazelon, was also instrumental in formulating these standards. He intended to replace the prior M'Naughten rule with the irresistible urge test. This rule was only put in place to help find out whether the accused had a mental disorder when the crime was committed.

Despite its proponents' claims that Durham's rule provided a simple and understandable insanity test, it was ultimately overturned. According to Bazelon's speculation, this rule would encourage greater data collection and presentation about scientific, psychological, and human behavioural aspects, and it would also make it easier for medical practitioners to submit their findings in court. In 1972, in the case of "*United States v. Brawley*,"¹¹ the same court invalidated this rule because it was invalid. The norms set forth by the American Law Institute eventually supplanted it.

BURDEN OF PROOF

The dilemma of providing evidence for the insanity defence arises in such circumstances. The insanity defence requires the defendant to state categorically that he was not sane. Both parties must establish, beyond a reasonable doubt, that the defendant was mad and that the accused was sane.

The assumption that a person is mentally stable unless demonstrated otherwise is general knowledge.¹² In legal proceedings, the burden of proof typically rests with the prosecution, requiring them to establish the occurrence of a criminal act or offense beyond a reasonable doubt. However, in cases involving the defense of insanity, the burden shifts to the defendant. It becomes the defendant's responsibility to demonstrate their insanity based on the balance of probabilities.

In the context of Indian law, Section 105 of the Indian Evidence Act places the onus on the accused to prove insanity. This entails presenting various forms of evidence, such as oral or written testimony, documentation, or instances of previous mental health issues. Specifically, Section 84 of the IPC outlines the conditions under which the accused must demonstrate their inability to comprehend the wrongfulness of their actions or their mental incapacity at the time of the offense. This evidence must be clear and compelling, indicating that the accused was not aware of the criminal nature of their actions due to a mental disorder.¹³ Here the prosecutor has to prove the presence of offence, "*beyond reasonable doubt*" but the accused doesn't need to prove his insanity "*beyond reasonable doubt*".¹⁴ The prosecution failed to constructively carry out their general duty, thus the court had to acquit the defendant in this case because

¹¹ 5:23-CR-00030

¹² "State of M.P v. Ahmadull (AIR 1961 SC 998)".

¹³ "State of Rajasthan v. Shear Ram and Vishnu Dutta (2012,1SCC 602), Elavarasan v. State RbIoP [2011 (7) SCC 110], T.N. Lakshmaiah v. State of Karnataka. (2002,1 SCC 219)."

¹⁴ "Sudhakaran v. State of Kerala [2010 (10) SCC 582]"

there was insufficient evidence to establish mens rea or other ingredients, in the event that the defendant could not prove his insanity.¹⁵

The onus of evidence of insanity is on the defendant in most states of the United States. The prosecution has the duty of proving the defendant's sanity beyond a reasonable doubt in the six eight states. It is the defendant's responsibility to prove his case with "*clear and convincing evidence*" in federal courts and Arizona.

MEDICAL INSANITY & LEGAL INSANITY

Insanity encompasses a wide spectrum of meanings, each pertinent to its context, be it legal or medical. Legal insanity, distinct from its medical counterpart, is defined within the legal framework, where the presence of a mental disease at the time of the act is paramount. Unlike medical insanity, where psychiatric diagnosis is central, legal insanity focuses solely on the mental state during the commission of the offense.

Medical insanity, typically associated with brain disorders, manifests in various forms, including idiocy, lunacy, lack of cognitive ability due to illness, and insanity induced by intoxication. An individual classified as an idiot is inherently incapable, often from birth, of comprehending basic concepts. In cases where a person is deemed "unsound of mind" and commits a criminal act, they are shielded from legal responsibility.

Legal proceedings concerning insanity hinge on Section 84 of the IPC, which necessitates consideration of two key factors: the presence of a mental defect or illness during the offense and the inability to distinguish between right and wrong or to comprehend the unlawfulness of their actions. The determination of insanity's applicability is crucially tied to the circumstances surrounding the crime, as only genuine cognitive impairment exempts an individual from criminal liability. Trivial delusions, typical of psychopathy, do not warrant legal protection against liability.

In essence, while medical insanity pertains to psychiatric diagnosis and brain disorders, legal insanity is contingent upon specific legal criteria outlined in the IPC. Understanding these distinctions is vital for accurately assessing culpability in cases involving mental health issues.¹⁶

The presence of certain conditions like emotional instability, recurring fits, or peculiar behavior does not automatically warrant protection from criminal responsibility. While medical documentation may establish the presence of mental illness, proving legal insanity is considerably more intricate. To qualify for legal insanity defense, the defendant must demonstrate ongoing suffering from a mental disease and

¹⁵ "Dahyabhai Chhaganbhai Thacker v. State of Gujarat (1964, 7 SCR 361)."

¹⁶ "Bapu and Gajraj Singh vs State of Rajasthan, Appeal (crl.) 1313 of 2006"

an inability to discern between right and wrong actions. Mere presence of a mental illness does not absolve an individual from their criminal liability. Thus, while medical evidence may be straightforward, legal insanity requires a more nuanced and substantiated argument.¹⁷

CONCLUSION

The concept of the insanity defence remains a multifaceted and contentious issue within legal systems worldwide. Throughout history, various tests and legal standards have been developed to assess the mental state of defendants accused of crimes. From the M'Naughton Rule to the Irresistible Impulse Test and the Model Penal Code Test, each approach has sought to balance the complexities of mental illness with the principles of criminal liability.

Despite its importance in safeguarding the rights of individuals with mental disorders, the insanity defence faces criticism and scrutiny. Concerns about its potential misuse, the subjective nature of assessments, and the challenges in meeting evidentiary standards highlight the complexities inherent in its application.

Moreover, the burden of proof in insanity defence cases adds another layer of complexity. While prosecution must establish the occurrence of a criminal act beyond a reasonable doubt, defendants often face the challenging task of proving their mental incapacity to the court.

Nevertheless, the insanity defence serves as a vital legal recourse for individuals with mental illnesses, offering protection from unjust punishment and recognition of their cognitive limitations. It also underscores the evolving nature of legal standards and the ongoing need for refinement and adaptation to ensure fairness and justice in criminal proceedings.

As legal systems continue to grapple with the complexities of mental health and criminal responsibility, it remains essential to strike a balance between accountability and compassion, recognizing the inherent dignity and rights of all individuals, including those with mental disorders. Only through thoughtful consideration, informed by both legal principles and scientific understanding, can the insanity defence fulfill its intended purpose of upholding justice and protecting vulnerable members of society.

¹⁷ “Kalpana Patgiri v. State of Assam, 2013 (5) GLR 139.”