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## **THE INSANITY DEFENCE UNDER INDIAN CRIMINAL LAW: FORENSIC EVOLUTION AND NEED FOR LEGAL REFORMS**

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### **ABSTRACT**

*Criminal trials are the most common setting in which the insanity defense is employed. It is based on the idea that the defendant had a serious mental disorder at the time of the offense, which prevented them from understanding the nature of their actions or discerning between right and wrong. Consequently, they are absolved of any legal obligations. A mental disorder alone does not prove insanity because insanity is a legal defense rather than a medical one. A "preponderance of the evidence," similar to the standard in civil trials, must be used by the defendant to prove the insanity defense. It is challenging to prove legal insanity, and it is even more challenging to do so in court. Researchers offer a framework for determining the mental state of a defendant as well as a synopsis of the legal requirements and processes for analyzing insanity defenses. Formal graduate courses, forensic psychiatric training, and clinical services delivery facilities are critically needed across the country to increase staff resources and guarantee impartial and expeditious trials.*

**KEYWORDS:** Criminal responsibility, Indian Penal Code Section-84, insanity defense, legal insanity, medical insanity.

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## INTRODUCTION:

Our fundamental convictions about human nature and dignity, as well as our everyday experiences with guilt, innocence, blame, and punishment, are closely linked to the concept of responsibility. Punishing someone who has not committed a crime is against both the Indian Constitution and fundamental human rights. Citing the natural justice concept, it also breaches due process of law if the individual is unable to defend themselves in court. The legal defense of insanity, which exonerates criminals who had mental diseases and were unable to rationally comprehend their conduct at the time of the offense, supports this fundamental principle. The laws of the majority of civilised countries support the widely held belief that those who are incapable of committing crimes should not be punished<sup>2</sup>. The insanity defense is covered in Section 84 of the Indian Penal Code (IPC), which deals with the behavior of mentally ill people. Montana, Idaho, Kansas, and Utah are among the states in the United States where the insanity defense has been abolished in recent years. Professionals in the fields of law, psychology, and medicine around the world are debating this in great detail.

There are a few studies that look at the clinical features of incarcerated patients, notwithstanding the paucity of research on this topic in India. In 2011, a significant study in Indian forensic psychiatry was conducted. 4002 (79.6%) of the 5024 prisoners assessed utilizing a semi-structured interview schedule had a diagnosis of either mental illness or substance misuse. 1389 prisoners, or 27.6%, had a diagnosable mental disease even after substance misuse was eliminated. Another Indian study presents a very negative image of patients in forensic psychiatry settings and argues that the referral, diagnostic, treatment, and certification processes should be accelerated. This research focuses on semi-structured assessment in the Indian setting based on significant Supreme Court decisions to address the problem of expediting the review of insanity defense and certification. It

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<sup>2</sup> L.O. Gostin & Larry O.G., *A Human Condition: The Law Relating to Mentally Abnormal Offenders*, vol. 2 (MIND 1977).

will also provide a model for assessing a defendant's mental status assessment and describe the legal requirements and methods for considering insanity defenses.

#### **HISTORICAL PERSPECTIVE OF INSANITY DEFENCE:**

The philosophy of the legal insanity defense has evolved over the past many centuries. In reality, even the Romans thought that criminalizing mentally sick individuals was improper. In the eleventh century, European courts started searching for a concept of insanity that would release defendants from criminal liability. The "good and evil" test, the first insanity defence, was introduced into English common law in 1313.<sup>3</sup> The "good and evil" test supported the theory that individuals with mental diseases couldn't commit sins because, like infants, they couldn't tell right from wrong. Furthermore, the lunacy of those suffering from mental diseases was sufficient punishment, negating the necessity for formal retribution.

Only individuals deemed "idiots" were exempt from punishment, according to a 1616 court ruling that reduced the standard. People were deemed "idiots" if they were illiterate, couldn't count from one to twenty, couldn't identify their parents, or couldn't tell what was good or bad. In 1724, the "idiot" exam gave way to the "wild beast" test. The "wild beast" test states that if a defendant did not understand his actions any more than a wild animal would, he should not be charged. Because the "wild beast" test restricted the conditions under which a person would be deemed insane, there were fewer instances in which a court accepted the defence.<sup>4</sup>

The "test of capacity to distinguish between right and wrong," the "wild beast test," and the "insane delusion test" are some of the tests that can be used to determine whether someone is legally insane. These three tests laid the groundwork for the iconic M'Naughten rule. A Glasgow-based woodturner named Daniel M'Naughten

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<sup>3</sup> Gabriel Hallevy, *The Matrix of Insanity in Modern Criminal Law* 5 (2015).

<sup>4</sup> Norman J. Finkel & Steven R. Sabat, *Split-Brain Madness: An Insanity Defense Waiting to Happen*, 8 *LAW & HUM. BEHAV.* 225, 230 (1984).

shot and killed Edward Drummond in 1843 after thinking he was Sir Robert Peel.<sup>5</sup> It was discovered that McNaughten had been completely mistaken about the purported persecution of him by the Conservatives for a considerable amount of time. When he had to be persuaded and ultimately deceived into entering a plea of "not guilty," it was clear that he was in a bad mood. In relation to the defense of insanity, the McNaughten rule established a well-known precedent. The Indian insanity defense statute, Section 84 IPC, is based on the McNaughten standards. No changes have been made because it's still a draft. In its 42nd report from 1971, the Law Commission of India attempted to examine Section 84, but no modifications were made.

Section 84<sup>6</sup> of IPC deals with the "act of a person of unsound mind." "Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law."

A review of Section 84 IPC allows for the enumeration of the following minor conditions. The loss of thinking required and the medical necessity of mental disease are the two main categories into which the Section 84 IPC can be separated for clarity. According to the primary criterion (mental disease requirement), the person must have suffered from a mental disorder at the time of the act, which means that they are:

- a. Incapable of understanding the nature of the act;
- b. Incapable of understanding that his act is wrong; or
- c. Incapable of understanding that it is against the law.

Legal insanity can be defined by both major (mental illness) and minor (loss of reasoning) criteria.

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<sup>5</sup> Daniel M'Naghten's Case, 8 Eng. Rep. 718 (H.L. 1843).

<sup>6</sup> Indian Penal Code s. 84 (1860).

Two fundamental principles of criminal jurisprudence are expressly embodied in Section 84 IPC: (a) "Actus nonfacit reum nisi mens sit rea" (an act does not constitute guilt unless done with a guilty intention) and (b) "Furiosi nulla voluntas est" (a person with mental illness has no free will). Accordingly, unless an action is performed with the guilty intent known as "mens rea," it does not qualify as a crime.<sup>7</sup> Therefore, Section 84 IPC exempts those with mental diseases from accountability because they are unable to have the necessary guilty intent or logical thought.

During the final quarter of the 19th century and the first quarter of the 20th, there were numerous perspectives and interpretations of the idea of legal insanity, but none of them were able to provide a clear definition of what constitutes legal insanity.

In *Durham v. United States* (1954), the US Court of Appeals of the District of Columbia developed a thorough standard of insanity defence that became known as the Durham Rule. This was accomplished by adopting the product test, which was first suggested in *State v. Jones* (1871). This rule states that if an accused person's mental illness caused the act, they will not be held accountable for it. (*Durham V. United State*, 1954)<sup>8</sup>.

#### LEGAL FRAMEWORK:

In essence, the unsoundness must make it more challenging to ascertain the act's character, "wrongness," and/or prescription. The burden of proving this line of defense is on the defendant. Impaired judgment, impulsive control, or emotional regulation are ignored while exhibiting a cognitive disability. Section 84 treats decreased or partial liability as an all-or-none test, ignoring it. Consequently, the defendants are required to present solid medical evidence in the form of expert testimony and reports. This is a difficult endeavor, especially in the context of India.

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<sup>7</sup> R.J. GERBER, *THE INSANITY DEFENSE* (Associated Faculty Press 1984).

<sup>8</sup> *Durham v. United States*, 214 F.2d 862 (D.C. Cir. 1954).

The legal definitions of mental diseases mentioned in section 84, which date back to the 18th century, fall well short of our present understanding.

Understanding how mental illness or developmental abnormalities impact one's ability to exercise self-control is crucial for both emotional and volitional aspects of human behavior.

Beginning July 1, 2024, the Indian penal code was superseded by the Bhartiya Nyaya Sanhita (BNS). As a corollary to section 84 of the IPC, section 22 of the BNS<sup>9</sup> states that "An act committed by a person with a mental condition rendering them incapable of understanding the nature and consequences of their actions, or of knowing that the act is wrong, shall not be considered an offence". While "unsoundness of mind" is replaced with "mental condition," the word "health" is omitted from mental health condition, which seems concerning.

While BNS may address a wider spectrum of mental problems, IPC is particularly concerned with severe cognitive impairments. While IPC focuses more on comprehending the essence of the act and its wrongness, BNS adds awareness of the repercussions to permit thorough evaluations.

Although BNS emphasizes consequences awareness, it seems to be more in accordance with our current understanding of how mental health disorders affect human behavior. The BNS has some shortcomings, such as the requirement for specific standards because more generic phrases may have diverse meanings due to interpretation problems.

#### **THE ROLE OF FORENSIC PSYCHIATRY:**

Every patient who makes an insanity claim has to go through a typical assessment process. Unfortunately, our nation does not yet have any such standardized procedures. Psychiatrists are often requested to provide mental health assessments

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<sup>9</sup> Bhartiya Nyaya Sanhita s.22 (2023).

and provide therapy. Courts have the power to demand various certificates in addition to medical care. Among these are:

- Attesting to the presence or absence of mental disease (the defendant's mental state at the time of the alleged act) in the event that the defendant files an insanity plea;
- Assessment of a person's eligibility for trial when a mental disease seriously affects their ability to defend themselves and hinders their cognitive, emotional, and behavioral abilities (the defendant's current mental state and his competency during adjudication).

For a thorough assessment of the defendant, the psychiatrist ought to think about inpatient admission.<sup>10</sup>

Since Kumar et al., the Institute has used the NIMHANS Detailed Workup Proforma for Forensic Psychiatry Patients-II for semi-structured assessment of forensic mental health cases. The proforma for the 2014 forensic psychiatric assessment was altered years ago. This proforma is regularly updated to comply with legal standards and clinical evaluation.

#### *Reviewing of accompanying documents:*

In order to determine the referring authority, the reason for the reference, the time and date of the referral, and the length of time available to provide an opinion, the psychiatrist must examine all pertinent legal documents. Before starting the assessment, it is important to evaluate the defendant's medical and mental health data.

The defendant, the person who accompanied them, the FIR, the postmortem and autopsy reports, the crime scene photos, the behavior observational report, the family members questioned, and the former treating psychiatrist should all be consulted in order to obtain a thorough history.

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<sup>10</sup> Kumar, D., Viswanath, B., Sebastian, A., Holla, B., Konduru, R., Chandrashekar, C.R., et al., Profile of male forensic psychiatric inpatients in South India, 60 Int'l J. Soc. Psychiatry 55 (2014)

*Assessment of history of presenting illness:*

Although it might not always be possible, the accused should be interviewed as quickly as possible following the offense. The defendant must be made aware of the assessment's goal and the absence of confidentiality at the outset. The psychiatrist should record the patient's demographics, identification markings, injuries, and the time and date of the assessment. A thorough investigation should be conducted into the patient's premorbid personality, family history, personal history, current disease, and past medical history. Assessing a patient's past and current substance usage is something a psychiatrist should always remember to do.

*Assessment focusing on mental state at the time of the offense:*

Psychiatrists should assess the defendant's mental condition at the time of the offence. He should ask open-ended inquiries in an attempt to obtain a thorough description of what happened. One week before and one week after the offense, it would be wise to ask the defendant to provide a detailed account of his behavior, feelings, and biological, occupational, and social functioning. It is important to closely investigate his thoughts, feelings, and behaviors before, during, and right after the offense.

Psychiatrists should use open-ended questioning to ascertain the defendant's legal knowledge, the nature of his behavior, and his capacity to distinguish between right and wrong.

Psychiatrists should also look at the defendant's behavior before, during, and after the offense to gain a sense of the patient's general mental state.

*Mental status and cognitive functioning assessment:*

Leading questions should not be used when performing a mental state assessment. Instead of using leading questions, the psychiatrist should limit his inquiries to open-ended ones. A psychiatrist who lacks experience may be more susceptible to being duped by dishonest patients. Therefore, it is best to admit the patient and perform ward observations and regular mental state tests.

*Diagnosis:*

Given the nature of the evaluation and the legal assumption that everyone is sane unless proven differently, it makes reasonable to begin the assessment in the same manner. First, psychiatrists ought to refrain from making a firm diagnosis. Either leave the diagnosis open or treat it as tentative. After obtaining information from all relevant sources, such as serial ward observations, psychological testing, laboratory investigations, and serial mental status examinations, a psychiatrist should conduct an honest, objective assessment and offer his opinion regarding the patient's lifetime diagnosis and current mental state. He should also genuinely try to express his opinions about the defendant's mental condition at the time of the offense.

*Future Directions:*

In India, there are no recognized diploma programs in forensic psychiatry. There are relatively few forensic psychiatric training programs and clinical forensic psychiatric service providers in the country. Given the state of forensic psychiatry at the moment, the researcher is compelled to suggest:

- Creating Forensic Psychiatry Training Centers to train correctional, legal, human rights, and mental health officials at the state level
- Every central prison must implement prison mental health services, per the recommendations of the Bangalore prison study.

- Psychiatrists in all district hospitals and medical colleges must be trained in assessing insanity defense and determining a patient's suitability for trial in order to guarantee simple access to forensic psychiatric services and avoid needless delays in obtaining expert opinions.
- To perform systematic research on criminal and diminished responsibility and to reexamine the offender in a responsible manner.

#### ANALYSIS OF LANDMARK INDIAN JUDGEMENT:

- **Dahyabhai Chhaganbhai Thakker v. State of Gujrat**  
Citation:(1964) 7 SCR 361  
Coram: Subbarao K., K.C. Das Gupta, Raghubar Dayal, JJ.

#### *Fact:*

The accused the appellant of killing his wife. According to Section 302 of the Indian Penal Code, 1860, the Sessions Judge found the appellant guilty despite his plea of insanity under Section 84 of the same law. Following an appeal, the conviction was upheld by the High Court. The appellant argued that the prosecution had not proven the case beyond a reasonable doubt because the accused had cast doubt on one of the ingredients (criminal intention), and the High Court should have decided that the accused had passed the burden of proof.<sup>11</sup>

#### *Findings:*

The Supreme Court determined that there was insufficient evidence to establish the accused's insanity or even to create a plausible doubt that the act may have been committed when the accused was insane after taking into account the evidence and witness comments. The burden of proof for both the prosecution and the defense was likewise set by the Supreme Court. The general burden of proof, which is always on the prosecution and never shifts, to establish guilt beyond a reasonable

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<sup>11</sup> Project 39A, Landmark Judgments,  
<https://www.project39a.com/mental-health-landmark-judgments> (last visited Oct. 8, 2025)

doubt does not contradict with the specific burden imposed on the accused to demonstrate his insanity. The accused must provide evidence to persuade the court that the conditions in question existed or were so likely to exist that a reasonable person would behave under the assumption that they did. The most crucial time to assess the accused's mental state is when the crime was committed. The only method to ascertain if the accused was in a state of mind that would have qualified them for the protection of Section 84 of the Indian Penal Code, 1860, is to look at the events leading up to, during, and after the crime.

- **Shrikant Anandrao Bhosale v. State of Maharashtra**

**Citation:** (2002) 7 SCC 748

**Coram:** Y.K. Sabharwal, H.K. Sema, JJ.

***Facts:***

On the day of the incident, the appellant, a police constable, got into an argument with his wife because she didn't want him to resign his work. While she was doing laundry, he hit her head with a grinding stone. The Sessions Court convicted him guilty, the Supreme Court heard the case after the High Court denied his appeal of the conviction. The appellant's claim of insanity was rejected by both the trial and the higher courts. The appeal was accepted by the Supreme Court, which reversed the conviction.

***Findings:***

The accused must provide proof of their mental state at the time of the offense in order to be eligible for the exemption. The lunacy that existed prior to and following the incident is confirmed, according to the Supreme Court. Nevertheless, this does not imply that he was mentally ill, even if he did not run away or had poor drive. The Supreme Court decided that it would be essential to look at the whole situation. Given that the appellant had mental illness prior to and following the occurrence, it

is reasonable to assume that the appellant was having delusions at the pertinent period. The Supreme Court concluded that the appellant had proven the existence of the conditions as needed by Section 105 of the Evidence Act, 1872, in order to benefit from Section 84 of the Indian Penal Code, 1860.

- **Bapu Gajraj Singh v. Rajasthan**

**Citation:** (2007) 8 SCC 66

**Coram:** Dr. Arijit Pasayat, D.K. Jain, JJ.

**Facts:**

The appellant was accused of killing his wife in accordance with Section 302 of the Indian Penal Code, 1860. During the trial, the defendant argued that he qualified for protection under Section 84 of the Indian Penal Code, 1860, since he was mentally ill. This was rejected by the Trial Court. The argument about the applicability of Section 84 of the Indian Penal Code, 1860, was similarly deemed unconvincing by the High Court. In the Supreme Court appeal, the lawyer contended that the police officers wanted to protect the court from the appellant's aggressive acts and that the accused had a family history of insanity.

**Findings:**

In the Indian Penal Code of 1860, "unsoundness of mind" is not specified. Nonetheless, courts have often viewed this phrase as being synonymous with insanity. However, the definition of "insanity" itself is ambiguous. A mental disorder does not always shield a person from criminal responsibility. Medical and legal insanity must be distinguished from one another. The common norm that reasonable men would have accepted should be used to determine whether a conduct was right or wrong.

This section cannot be applied simply because an accused person is conceited, eccentric, and irascible, or because his brain is not functioning properly, or because his physical and mental illnesses have impaired his intellect and affected his

emotions and will, or because he has committed some unusual acts in the past, or because he is prone to brief, frequent episodes of insanity, or because his behavior was queer. The onus is on the accused to prove their insanity. An honest investigator has a duty to have the accused undergo a medical evaluation and provide the results to the court if a past history of insanity is found during the inquiry. Failure to do so would seriously undermine the prosecution's case, and the accused must be given the benefit of the doubt.

- **Lalitha Latha v. State of Kerala**

**Citation:** (2007) 8 SCC 66

**Coram:** M.R. Anitha, K. Vinod Chandran, JJ.

**Facts:**

Under Sections 302 and 309 of the Indian Penal Code, 1860, the appellant was tried for the alleged murders of her mother and two daughters. The appellant argued that she was a mental patient during the trial. The appellant was found guilty by the trial court under Sections 302 and 309 of the Indian Penal Code, 1860, and was given a life sentence and a fine.

**Findings:**

A High Court Division Bench found that the appellant had not adequately proven that he was not of sound mind at the time of the incident. However, they emphasized that the appellant had received treatment for mental problems both prior to and following the occurrence, as shown by the evidence produced at trial points. Given these facts and the severity of the offense, the Court ruled that the appellant should have had a mental evaluation. The court concluded that there is a reasonable question about the appellant's possession of the required mens rea based on the evidence given.

**CONCLUSION:**

# THE INSANITY DEFENCE UNDER INDIAN CRIMINAL LAW: FORENSIC EVOLUTION AND NEED FOR LEGAL REFORMS

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The defense of insanity had multiple stages of evolution before taking on its current form. This defense has been employed to evade criminal culpability since the dawn of time. Different conceptions of insanity, the insanity defense, and criminal responsibility in connection to the insanity standard predominated at different points in the evolution of the insanity defense. The insights gained from scientific research on the phenomena of insanity had a major role in the development of the current version of the insanity defense. The information that scientific research on the phenomenon of insanity provided had a significant role in the development of the insanity defense as it exists today. The establishment of the M'Naghten criteria marked a major shift in the development of the insanity defense. Additionally, several techniques, such as the Durham Rule, ALI Rule, New Hampshire Product Test, and Irresistible Impulse Rule, were employed at different times to determine the criteria of legal insanity. In order to determine if certain mental diseases affected a person's ability to create the intent necessary to establish legal culpability, the court may ask psychiatrists for assistance. Medical practitioners describe a patient's mental state using a continuum that goes from extremely ill to entirely healthy. However, the legal language is clearly categorical: one is either criminally guilty or not. Courts are concerned with protecting society from the potential danger posed by these patients, whereas psychiatrists are focused on the medical care of specific individuals.

A psychiatrist needs to understand that the patient's mental disease is not the most significant aspect of the circumstance. assessed in light of the available evidence to show that the defendant was likewise unable to comprehend the nature of the act or crime or that it violated the law, which is important for the defense of insanity in a court of law. Above all, there aren't many facilities in the country that provide informal training and clinical services in forensic psychiatry. Forensic psychiatry needs to be prioritized in order to guarantee a fair and timely trial.