

## MAPPING THE DIFFERENCE BETWEEN INSANITY AND INTOXICATION

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### ABSTRACT

*Insanity and Intoxications are terms that are quite similar but there is a major difference when we see the meaning of the terms and the defence that is provided under the Indian Penal Code, so to understand in short, the meaning of both the terms- The meaning of the term insanity is abnormal behavior both mentally and physically. In cases of insanity, it is upon the person who is accused to prove insanity at the time of the offence. The term intoxication basically means when a person whose use of alcohol, or drugs, especially improper prescription medicine use, has damaged their mental or physical functioning. Then there is intoxication against the will or forceful and with the will. There are different defenses that are provided in the Indian Penal Code for both. Both the terms and their interpretations and their meanings are covered in the research paper. This research strives to identify the difference between both terms. A legal perspective, as well as a case study, have been included in the research article to make it clearer and more informative.*

### INTRODUCTION

The definition of the term intoxication is “A person loses self-control and their ability to evaluate when they are intoxicated. A criminal defendant may utilise intoxication as a defence on the grounds that the defendant was intoxicated and so was not aware of the nature of his or her acts or aware of what he or she was doing.”<sup>12</sup> The criminal liability for intoxication is covered under sections 85<sup>3</sup> and section 86<sup>4</sup> of the Indian Penal Code, and it largely depends on whether the act of intoxication was voluntary or not.

*Section 85 of IPC - “Act of a person incapable of judgement by reason of intoxication caused against his will.” —“Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing*

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<sup>1</sup> Kiranpreet kaur, India: General Criminal Defences: Insanity, Infancy And Intoxication. Part-1, Blog ( Oct. 2, 2, 7:16 PM) <https://www.mondaq.com/india/crime/878294/general-criminal-defences-insanity-infancy-and-intoxicationpart-1#:~:text=Intoxication%20is%20a%20state%20of,what%20he%2Fshe%20was%20doing.>

<sup>3</sup> INDIAN PENAL CODE section 85

<sup>4</sup> INDIAN PENAL CODE section 86

*what is either wrong or contrary to law; provided that the thing which intoxicated him was administered to him without his knowledge or against his will”<sup>5</sup>*

*Section 86 of IPC- “Offence requiring a particular intent or knowledge committed by one who is intoxicated. —In cases where an act done is not an offence unless done with particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated unless the thing which intoxicated him was administered to him without his knowledge or against his will.”<sup>6</sup>*

In the case of section 85 for better understanding means that if a person is intoxicated involuntarily that can be against his will and without his knowledge leads to legal unsoundness and it is difficult for him to understand the nature of the act then only, he will get a defence under this section. In the case of section 86 for easy understanding it means a person that gets intoxicated voluntarily and commits an offence requiring knowledge or intention of the person who is intoxicated, it will be presumed that the person had the knowledge and defence will not be provided. The definition of insanity. “A mental disorder of such a serious degree that a person cannot distinguish fantasy from reality, cannot manage her/his affairs because of psychosis, or is vulnerable to uncontrollable impulsive action,” is what is meant by insanity. The difference between insanity and poor IQ or mental impairment brought on by age or accident.”<sup>7</sup> section 84<sup>8</sup> of the Indian Penal Code talks about insanity as

**Section 84 of IPC-** *“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”<sup>9</sup>* In case of section 84 for easy understanding the person has to prove medical history, conduct before or after or at the time of committing a crime or lack of motive or when there is no want of escape and concealment if these elements or essentials are present then only a person will get defence under section 84. If the person knew that the act that he is committing is contrary to the law then he can't take a defence in section 84.

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<sup>5</sup> *ibid*

<sup>6</sup> *id*

<sup>7</sup> GABRIEL TAYLOR, What Is The Legal Definition Of “Insanity?”, blog (Oct, 2, 2022, 7:36 PM) <http://www.oxfordlegal.com/legal-definition-insanity/>

<sup>8</sup> INDIAN PENAL CODE section 84

<sup>9</sup> *ibid*

## ANALYSIS

### *How Insanity and Intoxication are Exceptions to Criminal Liability?*

Indian criminal law is based on the notion of state punishments against anyone who has disobeyed certain moral standards that are thought to be necessary for maintaining social order and the proper operation of society. The law also recognises exceptions to criminal liability in situations where the individual lacks a certain mental capacity for some reason and cannot be held responsible for his actions. Criminal liability is based on actions that are supposed to be the will of the individual. The Basis for Criminal Responsibility

" To make a person criminally liable in the court of law, two things need to be proved which are": -

- The person must have committed an act or omission which is prohibited by the criminal law of the state.
- The act or omission in question must have been committed by a person who has a guilty mind.

### *How Insanity is a Defence in Criminal Law?*

In order to hold someone accountable for a wrongful act, it is necessary that the person who committed the act had the requisite mental capacity to develop criminal intent at the time of committing the act. If it is proven that a person committed a crime but lacked the necessary mental capacity while committing that crime, they cannot be prosecuted for their actions.

The causes of his lack of mental competence can be divided into three main categories:

- People who are too young or immature to have the mental development necessary to prove criminal intent.
- When a person is not of sound mind and cannot be considered to be intentionally guilty because of his mental state.
- When a person is unable to form a deliberate intention due to intoxication.

According to "Bowler's Case of Right and Wrong,"

This case marked a shift away from the "good and evil" conceptual framework in favour of the statement of "right and wrong." The ability of a person to discriminate between right and

wrong was thus considered the basis for the definition of insanity. Even though Lord Mansfield C.J. used the terms "right and wrong" and "good and evil" interchangeably in the case, it set a precedent for subsequent instances in which the courts began emphasising the definition of "right and wrong."

*The law of insanity was established in the case R v. McNaughton.*

In 1843, a man named McNaughton shot and killed a man named Mr. Drummond who was the private secretary to Sir Robert Peel, Prime Minister of England. McNaughton intended to kill Prime Minister Sir Robert Peel, but because he failed to identify the Prime Minister, he accidentally shot Mr. Drummond. He was later apprehended and imprisoned, as he was insane and there was no English law at the time to establish the criminal liability of the mentally ill person, a commission of 14 judges was formed to create a law, which resulted in the establishment of "McNaughton rule".

So, to establish the defence of insanity, it is very much necessary to unequivocally prove that the accused suffered from such a lack of reason due to mental illness at the time of committing the crime and that he was unaware of the nature and quality of the act he was committing, or that he did not know he was performing an illegal act or prohibited act.

### **Legal Insanity in relation to Medical Insanity**

It is very important to have a clear demarcation between the legal term insanity and the medical term insanity. In general, 'legal insanity' is the only focus of the court of law that attracts Section 84 of the IPC defence, whereas medical insanity is not considered by the court of law. Legal insanity is defined as a mental state in which a person is unaware of the nature of the act he is performing. While medical insanity can take many forms, such as strange behaviour caused by improper brain functioning or a lack of intellect, the court will not accept these as valid defence mechanisms under Section.84 of IPC until they meet the criteria of legal insanity.

The concept of Medical insanity covers many more mental states than legal insanity. Many mental states affect an individual's emotional capacity but are not taken into account in determining "whether the person suffered from insanity in order to be exempt from criminal liability." The health of a man is not taken into account by a court of law. They only refer to a particular type of mental defect that has hampered a person's ability to comprehend the nature of their actions.

The difference between the points of concern and emphasis is best summed up in the words of Prof. Goodhart;<sup>10</sup> “With insanity as such, the law has no concern. It is concerned with insanity only in so far as the disease has caused an act. In other words, the doctor asks: “Is the man Insane?” The lawyer’s question is: “Did the insanity cause the act?” If it did not, then it is Immaterial whether or not the man is insane. Insanity may cause an act by destroying (a) A man’s reason, and (b) his moral character. The medical profession urges that the law Should take into account both these results of insanity. This the law has refused to do....” ( Professor A.L. Goodhart, ‘Recent

### **Tendencies in English Jurisprudence’ 1929 Canadian Bar Review. Cited in)**

Insanity is one of the defence which is listed in General Exceptions Chapter IV of the Indian Penal Code. And general exceptions are those exceptions listed separately in the Code that a person can use to defend his case. These exceptions serve as a shield to protect the defendant under certain conditions outlined in Section.76-Section.106. When these conditions are met, an offence becomes a no offence. As a result, these exceptions are part of every offence, but the burden of proof is on the defendant who claims in court that his case falls under one of these exceptions. We can categorize the exceptions into seven categories:

Judicial Acts (Sections 77 and 78), Mistake of Fact (Sections 76 and 79), Accident (Section 80), Absence of Criminal Intent (Sections 81 to 86, 92 to 94), Consent (Sections 87 and 89), Trifling Acts (Section 95), Private Defence (Section.96-106)

The Indian law on insanity as an excuse for criminal liability is incorporated in section 84 of the Indian Penal Code; which says – “*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*”. Under the Indian Penal Code, we do not use the term 'insanity,' but rather an unsoundness of mind, which is equivalent to insanity. In cases where the accused has a history of unsoundness of mind, the investigating officer is required to subject the accused to a medical examination during the investigation so that his current mental state can be fairly judged. This will assist the prosecution in bolstering its case. There will be no exemption from the burden of proof given to the defendant in cases where there is a medical history of insanity because he must

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<sup>10</sup> Professor A.L. Goodhart, ‘Recent Tendencies in English Jurisprudence’ 1929 Canadian Bar Review. Nigam (n 4) 365

specifically prove his claim that the act in question was committed under insanity, and the fact that there is a medical history of his insanity will not serve his claim.

### **IS THE TIME OF COMMISSION OF OFFENCE MATTER?**

The time of the commission of the offence becomes the most important point, as it is during this time that the accused mental state is to be judged. Section.84 will be applied if the accused does not know the nature of the act or does not know whether it is wrong or contrary to the law. When a person becomes insane and sane at regular intervals, the time of the commission of the offence becomes even more important because he can commit the offences while sane and fully aware of his actions, so the time and the state in which the accused is committing an offence is very important.

#### ***Unsoundness of mind***

Unsoundness of mind can be by birth or later occur as a result of a disease. In the case where a person killed his sleeping friend by cutting off his head with the intention of seeing when he would wake up and find his head back, we can say that such an act was committed under the influence of insanity. However, a man who sacrificed his son to the deity in the belief that it would bring good fortune to his family cannot be said to be acting in an unsound mind because he was fully aware of what he was doing and its nature because he was expecting good fortune in return for such act. This indicates that he was fully informed about the nature and repercussions of the action. If murder is committed suddenly without a predetermined reason or the purpose to kill, it will not be considered insane. It doesn't matter that it was carried out quickly or without a clear reason or strategy; it still won't qualify as a case of insanity.

#### ***Unable to understand the nature of the act***

No kind of mental defect will come to the aid of a person if the said mental defect did not affect his cognitive ability to know what he was doing. The emphasis here needs to be placed on the word “know” as it appears in Section 84 which means that if unsoundness of mind affects some other aspect of mental aptitude like emotions, it would not be covered under Section 84 unless the cognitive capacity was impaired.<sup>10</sup> If a person of unsound mind nevertheless retained his ability to know the nature of his acts, section 84 cannot be applied.<sup>11</sup> By the ‘nature’ of the act, what is implied is the physical and immediate consequences of the act.

***The plea of irresistible impulse:***

The mental disorders not covered by the purview of the McNaughton regulations have garnered criticism over the years. The concept of "uncontrollable urge" or "irresistible impulse" is one of the most frequently occurring problems in this regard. The term "irresistible urge" or "uncontrollable impulse" refers to a mental condition where a man loses control over his will to stop himself from doing something, rather than his awareness of what he is doing. It is a mental illness that affects a person's emotions and undermines his ability to control his own will. Courts in England have routinely rejected this argument. The courts have not been sympathetic to such a claim even in India. The following are some significant issues with accepting irresistible impulse as a defence:

1. The challenge of distinguishing between an irresistible impulse and a resistible one.
2. Men's Impulses would become out of control if such a defence existed.

It is clear that the Indian legal system forbids an exemption in cases when a person has merely lost control over his conduct rather than the capacity to understand the nature of those activities.

**CASE LAWS**

“Hari Singh Gond vs The State Of Madhya Pradesh” “...in order to entitle an accused to the benefit of Section 84, insanity must have affected “cognitive faculties” If it merely affected his ‘will’, or ‘emotion’, leaving his cognitive faculties substantially unimpaired, he cannot be exempted from responsibility, though it may be a case of extenuation.”

Amrit Bhushan Gupta v Union of India AIR 1977 SC 608; “If, at the time of the commission of the offence, the appellant knew the nature of the act he was committing; he could not be absolved of responsibility for the grave offence of murder.” In this case, the Supreme Court ruled that there is no precise definition of unsoundness of mind in the IPC. We generally treat it as equivalent to insanity, but even insanity is not defined in law. It could be said to encompass a wide range of mental disorders. As a result, not everyone who is mentally ill is legally insane. A distinction must be made between mental insanity and legal insanity. The court is only concerned with mental insanity and not legal insanity.

In “Ratan Lal v. State of Madhya Pradesh” The court ruled that the crucial point of time at which the unsound mind must be demonstrated is the moment the crime was committed and

that the only circumstances that can be used to determine whether the accused was mentally competent to benefit from Section 84 were those that preceded, followed, and were immediately after the event. Remotely occurring events cannot be used to determine whether the accused was mentally competent at the moment the crime was committed.

### **HOW INTOXICATION IS AN EXCUSE FOR CRIMINAL LIABILITY?**

A person who is intoxicated is cognitively and physically impaired as a result of consuming alcohol or a narcotic substance, and as a result, is unable to comprehend the purpose and context of his actions. The provisions concerning acts performed by a person while under the influence of alcohol can be found in Sections 85 and 86 of the Indian Penal Code, 1860. A person who is intoxicated is cognitively and physically impaired as a result of consuming alcohol or a narcotic substance, and as a result, is unable to comprehend the purpose and context of his actions. The regulations concerning acts performed by a person while under the influence of alcohol can be found in Sections 85 and 86 of the Indian Penal Code, 1860.

Intoxication is not a defence to a crime per se, but when someone uses alcohol or drugs to get drunk or high and commits a crime, the level of intoxication may be such as to preclude the defendant from having the essential mens rea for the offence. In determining whether a criminal may use their intoxication to contest the mens rea of a crime, public policy is a significant determining factor. Criminals should not be able to escape responsibility by claiming they were too incapable to understand what they were doing. This is obviously not in the public interest. This is frequently regarded as an aggravating rather than a mitigating factor, especially in cases when the defendant put himself in that situation.

To strike balance the law has created a number of rules with ambiguous applications in an attempt to strike a balance between holding someone criminally liable, even if the person lacks the necessary mental capacity on the one hand, and on the other hand protecting the public from those who deliberately put themselves in a position where they are unable to control their actions. Because of this, the law distinguishes between voluntary and involuntary intoxication. The law is generally more accommodating to someone who did not voluntarily get into a state of intoxication.

[Section 85] “Act of a person incapable of judgement by reason of intoxication caused against his will”—

“Section 85 of the Indian Penal Code states that – *“Nothing is an offence which is done by a person who at the time of doing it by reason of intoxication is incapable of knowing the nature of the act he is doing, and what is either or contrary to the law, provided that the thing which intoxicated him was administered to him without his knowledge or against his will”.*

As a result, Section 85 deals with involuntary intoxication, which protects a person from criminal liability if, at the time of committing the act, he was unable to understand the nature and circumstances of his act, or acted unlawfully or contrary to the law due to intoxication and it happened "without his knowledge" or "against his will".<sup>11</sup> When food or drink is secretly spiked with alcohol or for that matter any substance which may result in intoxication, that is the most visible case of involuntary intoxication. But it might also apply in cases where a specific drug has an unexpected outcome compared to what was predicted. However, if the effect is expected but the defendant simply underestimates the strength, the intoxication will still be voluntary.

“R v Hardie [1985] 1 WLR 64”

The owner of a flat informed a man he had to leave, but she gave him permission to use her valium pills to calm him down. He lit a wardrobe on fire while intoxicated. The judge ruled that voluntarily self-administering drugs did not qualify as a defence because it did not affect the mens rea. His burning conviction was upheld. The CA upheld his appeal since H had merely taken the valium to calm himself and was not aware of the risk involved. However, the intoxication will still be voluntary if the effect is foreseen but the defendant only underestimates its degree.

“Bablu @ Mubarak Hussain v State of Rajasthan”

The Supreme Court ruled that in this instance, where the appellant killed his wife and five children while intoxicated, it is insufficient to rely on section 85. The defendant must enter a plea and offer evidence that the intoxicant was given to him despite his will or without his consent.

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<sup>11</sup> <https://aishwaryasandeep.com/2022/05/20/intoxication-as-a-defence-under-indian-penal-code1860/>

“R v Allen [1988] Crim LR 698”

In this case, the key point was that even if the defendant made a mistake regarding the strength of the intoxicant, intoxication is voluntary. Court held that even if the person had not actually realized the strength of the wine, the intoxication will still be called voluntary intoxication. [SECTION 86] “Offence requiring a particular intent or knowledge committed by one who is intoxicated”. According to Indian Penal Code Section 86, a person who commits an act while intoxicated may be punished as if they had the same knowledge as if they had not been intoxicated unless the substance that made them drunk was given to them against their will or without their knowledge. In such cases, the act is not unlawful unless it is committed with specific knowledge or intent. As a result, Section 86 addresses voluntary intoxication and makes clear that an act committed while under the influence of self-induced intoxication constitutes an offence, even if the person who committed the act or the cause of the intoxication is incapable of understanding that what he is doing is unlawful or against the law. Since voluntary drunkenness needs specific knowledge or intent, it cannot be used as an excuse for any crime.

“Basudev v State, 1956 AIR 488”

The Supreme Court ruled in this case that when a person is intoxicated when committing an offence, it can be assumed that the individual is aware of what he is doing, but he does not necessarily have the intent to commit the offence; this intent must be inferred from the facts and circumstances of the specific offence. All other offences are covered by Section 85, while those requiring particular knowledge or intention are dealt with by Section 86. Section 86 differs from Section 85 in this way. Sections 85 and 86 are both parts of the "General Exceptions" to criminal liability in Part IV. The burden of proof is on the accused, not the prosecution. To obtain protection, one must demonstrate that the intoxication was done without his knowledge or against his will and that there was no intent to cause harm. However, mere proof that he was working under the influence of a self-administered intoxicant is insufficient to obtain the defence.

“Venkappa v. state of Karnataka 1996 CriLJ 15”

In this case, the accused tried to use intoxication as a defence. However, the court rejected his plea, stating that intoxication was voluntary and he was held liable.

***Insanity caused by voluntary intoxication is not at all considered a general defence in all circumstances.***

Intoxication and intoxication that causes insanity are two different things. When a person reaches the stage of insanity, the law considers the defense of insanity. It does not distinguish between insanity caused by routine drinking or occasional drinking, or insanity caused by conscious or unconscious drunkenness. The court will not consider any other factors, including regular heavy drinking if the defendant was legally insane at the time of the offense. It should be noted, however, that the courts distinguished between actual insanity and mere drunkenness. In the latter case, a man may be incapable of forming a specific intent to commit a crime, but that does not make him legally insane. Therefore, the insanity defense applies only in cases where intoxication results in legal insanity. It is assumed that one meant the natural consequences of one's actions in situations where only simple drunkenness was involved and "the judgment of the accused was so influenced by drink that he more easily succumbed to some violent passion".

## **CONCLUSION**

By reading this research, the meaning of intoxication and insanity is very clear. The research paper deals with the meaning of both the terms and their defences. The brief but insightful introduction mentions the meaning and their necessity. The research paper deals with meaning and some similarities and differences between both the terms and their defences. The article also includes the case laws and how the terms evolved with time how their meaning is interpreted and how the term legal insanity is different from medical insanity.