

A FAIRER VERDICT: UNDERSTANDING INSANITY DEFENSE IN CRIMINAL LAW

Priyamvada*

ABSTRACT

The keystone to justice is the belief that the legal system treats all fairly.¹ This article delves into the defence of insanity, highlighting its significance within the legal system. It begins by underscoring the foundational role of law and courts in fostering societal betterment and individual protection. The article explains the dual principles of criminal law, actus reus and mens rea, emphasizing the necessity of intention in establishing guilt. It explores the mental aspects of crime, presenting studies that link mental illness to criminal behaviour. The legal standpoint on insanity in India is discussed, focusing on Section 84 of the Indian Penal Code and the influence of McNaughton's Rule. The article advocates for the defence of insanity as a humane alternative to punishment, stressing the need for legal reforms, better mental health resources, and increased awareness. It argues that recognizing mental illness in legal defences ensures justice, reduces recidivism, and supports rehabilitation, making the defence of insanity a lifesaver rather than a legal loophole.

Keywords: Defense Of Insanity, Humanitarian Justice, Mental Illness, Legal Reforms.

INTRODUCTION

The fundamental role of law and courts extends beyond mere punishment; it is intrinsically linked to the betterment of society and its individuals. The function of law is to aid citizens in need and to protect and balance every individual's interests. Along these lines, people wish for the law to be just and fair to all its citizens it to be empathetic towards the one who comes to it for help. When someone reads this, the first image painted into their head is of the person who was stripped forcefully of what is lawfully theirs and now takes shelter under our centuries-old impartial legal system, seldom do we think of the accused as a part of the same system of jurisprudence.

*BA LLB, SECOND YEAR, DR RAM MANOHAR LOHIA NATIONAL LAW UNIVERSITY.

¹ Janet Reno, 'The keystone to justice is the belief that the legal system treats all fairly' (BrainyQuote) <https://www.brainyquote.com/topics/legal-system-quotes> accessed 17 June 2024.

When an individual faces criminal accusations in a court of law, they are provided with the opportunity to present evidence to refute the charges. Legal defences can be invoked to support the individual's case, and if successfully proven, the accused can be pronounced innocent. One notable defence available is the defence of insanity.

Criminal law works on two legal maxims. It is generally agreed that the essential ingredients of any crime² are (1) a voluntary act or omission (actus reus)³, accompanied by⁴a certain state of mind (mens rea)⁵. An act may be any kind of voluntary human behaviour⁶. Law believes that these elements are substantial for a person to be said to commit a crime i.e. an action committed voluntarily and a certain state of mind or an “intention to harm”. When we say the person had no intention to harm's implying that the person was not acting with malice. Unlike civil wrongs, criminal wrongs pay heed to the mental aspect. Talking the defence of Insanity necessarily revolves around the mental element of crimes or “mens rea” When evaluating guilt, the presence of intention is a vital factor. If there is no intention to cause harm, it changes the whole course of judgment's mental aspect.

Undoubtedly, the mental aspect and intentions play a significant role in individuals engaging in behaviour that deviates from the norm. Mental illnesses can alter brain chemistry and distort perceptions of actions and emotions. The prevalence of mental illness in a wide range of crimes is on the rise, from common disorders like depression and anxiety to more severe cases such as bipolar disorder and schizophrenia. Limited awareness makes it challenging for people to recognize the problem and address it before it escalates.

The majority of individuals who carry out horrifying crimes often struggle with mental illness. According to a landmark study done by Forensic Psychiatry in the Indian setting in 2011, 5024 prisoners were assessed in semi-structured interview schedules, and it was reported that 1389 (27.6%) prisoners have a diagnosable mental illness. A 2005 study conducted by Richard Lamb and Linda Weinberger revealed that as such 24% of the prison population has a severe mental illness.⁷ Research suggests that patients with mental illness may be more prone to violence if they do not receive adequate treatment, are actively experiencing delusions, or have long-

² <https://www.britannica.com/topic/crime-law>

³ <https://www.britannica.com/topic/actus-reus>

⁴ "Criminal Law: Substantive Criminal Law" (Encyclopaedia Britannica) <https://www.britannica.com/topic/criminal-law/Substantive-criminal-law> accessed 5 June 2024.

⁵ <https://www.britannica.com/topic/mens-rea>

⁶ <https://www.britannica.com/topic/human-behavior>

⁷ 'Prison Mental Health Crisis Continues to Grow' (2006) 41 Psychiatr News 1-30. Accessed on 10 June 2024

standing paranoia. A prevalent symptom experienced by these individuals is the manifestation of psychosis.

Psychosis refers to a collection of symptoms that affect the mind, where there has been some loss of contact with reality. During an episode of psychosis, a person's thoughts and perceptions are disrupted and they may have difficulty recognizing what is real and what is not. People with psychosis typically experience delusions and hallucinations. Other symptoms can include incoherent or nonsense speech and behaviour that is inappropriate for the situation.⁸

Such patients are often under the influence of their psychiatric illness such as command hallucinations.⁹ Command hallucinations are auditory hallucinations that instruct a person to act in a certain way. These orders are generally violent and hostile in nature. Another study reported that 91.7 per cent of subjects experiencing command hallucinations ordering acts of violence against themselves complied with those orders, and 66.7 per cent of those experiencing command hallucinations ordering acts of violence against others. The research findings underscore the significant impact of an individual's mental well-being on their decisions and conduct, highlighting the critical need for effective treatment for those grappling with mental health conditions. Individuals experiencing hallucinations often find themselves coerced into following the directives of their perceptions, leading to behaviours that pose considerable risks to their safety and that of others. It is imperative to understand that not all individuals with mental health issues should be subject to stigma. Still, it is evident how vital it is for them to seek the necessary assistance to mitigate potential harm.

INSANITY: A LEGAL STANDPOINT

The spectrum of mental illnesses is very diverse. From day-to-day Anxiety and Phobias to severe disorders like Schizophrenia and Bipolar Disorder. However, not all of them qualify for the defence of insanity.

Insanity is a state of mind that impedes the ability to think, reason, or behave in ways that are considered normal¹⁰. Insanity is a mental illness of such a severe nature that a person cannot

⁸ *Understanding psychosis; National Institute of Mental Health*. Available at: <https://www.nimh.nih.gov/health/publications/understanding-psychosis> (Accessed: 12 June 2024).

⁹ N Ghiasi, Y Azhar and J Singh, 'Psychiatric Illness and Criminality' (StatPearls Publishing, 30 March 2023) <https://www.ncbi.nlm.nih.gov/books/NBK537064/> accessed 17 June 2024.

¹⁰ N Ghiasi, Y Azhar and J Singh, 'Psychiatric Illness and Criminality' (StatPearls Publishing, 30 March 2023) <https://www.ncbi.nlm.nih.gov/books/NBK537064/> accessed 17 June 2024.

distinguish fantasy from reality, cannot conduct her/his affairs due to psychosis or is subject to uncontrollable impulsive behaviour.¹¹

When we refer to insanity in the legal context, the criteria become more specific. We are considering the mental state of the criminal at the time of committing a crime. Generally, disorders with psychosis as a symptom meet the criteria for an insanity defence.

Section 84 of the Indian Penal Code¹² says that any act done by a person who is of unsound mind at the time of doing an act and the person is incapable of knowing the nature of the act and the person does not know that the act which he is doing is wrong or contrary to Law. Defence of Insanity takes into consideration these key points:

All are presumed to be sane until the contrary be proved for the satisfaction of the Court

To claim the defence of Insanity, one should clearly show that at the time of the act, the accused was suffering from a defect or mental illness

At the time of doing the act, he did not know the nature of the act

At the time of doing the act, the accused does not know that what he was doing was wrong

Law is meant to treat equals equally and contribute to the improvement of society. From a moral perspective, it's important to recognize that individuals who lack the mental capacity to understand the nature or wrongfulness of their actions should not be held to the same standard of responsibility as those who intentionally committed crimes. Furthermore, it's crucial to understand that conditions like insanity can lead individuals to act involuntarily or under irresistible impulses. Holding them accountable for actions they cannot control contradicts the very principle of justice. It's the responsibility of society and the legal system to protect its most vulnerable members, including those suffering from mental illnesses, who reach out for assistance.

¹¹ Howes, R. (no date) *The definition of insanity*, *Psychology Today*. Available at: <https://www.psychologytoday.com/intl/blog/in-therapy/200907/the-definition-insanity> (Accessed: 19 June 2024).

¹² Indian penal code 1860

Test of Insanity in India is developed from the of Mc. Naughton's rule which is reflected in the principles laid down by IPC qualifies for the defence of Insanity. This rule sums up to these four points:

First, the defendant must establish an underlying medical condition (“disease of the mind”), and second, prove that this condition has caused an impact on their mental processes and understanding (“defect of reason”). Third, Either the defendant did not understand what they were doing at the time of the criminal act (“nature and quality of the act”), and fourth, if they were aware of what they were physically doing, they did not realize that the act was prohibited (“doing what was wrong”).¹³

In legal proceedings, it's crucial to understand that the responsibility of demonstrating the defendant's insanity at the time of the offence falls on the defendant. If the defence of insanity is successfully argued, it results in a "not guilty" verdict, and instead of a prison sentence, the individual is typically sent to a mental health facility for treatment. This approach aims to address the individual's mental health needs.

In the context of India, it is evident that mental health and illnesses have historically been subject to stigma, contributing to the underutilization of the insanity defence despite the prevalence of individuals with mental illness within the prison system. This raises significant concerns about the treatment and support available to incarcerated individuals with mental health challenges.

There has been, however, a recent rise in awareness about mental health and steps are being taken. Although primarily focusing on healthcare, the Mental Health Act, of 2017¹⁴ aims to protect the rights of individuals with mental illnesses and may influence the legal handling of insanity defences. India has slowly been progressing towards a more empathetic legal system.

PROSPECTS AND BENEFITS OF INSANITY DEFENSE

The defence of insanity underscores a fundamental principle of justice: punishing individuals incapable of understanding their actions contradicts the very essence of a fair legal system. It is our duty to recognize that individuals with severe mental illness need support, not punitive

¹³ *Understanding psychosis* (no date) *National Institute of Mental Health*. Available at: <https://www.nimh.nih.gov/health/publications/understanding-psychosis> (Accessed: 16 June 2024).

¹⁴ <https://www.indiacode.nic.in/bitstream/123456789/2249/1/A2017-10.pdf>

measures. By sentencing these individuals to mental asylums where they can receive the care they require, rather than imprisoning them, we not only demonstrate compassion but also reduce the likelihood of reoffending. This approach is crucial for public safety as it addresses the root cause of the behaviour and provides the opportunity for rehabilitation.

Beyond benefiting the individuals, redirecting them to mental asylums allows for the more efficient use of resources, alleviating the strain on an already overwhelmed prison system. Additionally, it fosters a safer environment for other inmates, as those diagnosed with mental illnesses often display lessened predictability in their behaviour.

It is simply unjust to punish individuals who fully comprehend the consequences of their actions in the same manner as those who do not. It is essential to acknowledge the disparate levels of guilt and tailor sentencing accordingly to ensure fairness and justice for all.

Individuals with mental illnesses require specialized support to live a dignified life, and mental health facilities play a crucial role in meeting these needs. The justice system must adhere to the principle of "equal treatment for equals," which necessitates addressing the unique needs of each individual.

It is crucial for us to humanize the accused and see them as individuals rather than just criminals. Society needs to acknowledge their diminished capacity and the profound impact of their illness on their behaviour. It's essential to ensure that mentally ill offenders are treated with compassion, upholding their dignity and avoiding dehumanizing practices such as solitary confinement or neglect.

ACCESSIBLE PATHWAYS TO INSANITY DEFENSE

It's been 160 years since Section 84 of the Indian Penal Code (IPC) was first introduced in 1860, and surprisingly, no changes have been made to it since then. During the time when the IPC was established, India was under British colonial rule, and since then, Indian society has undergone significant development. It is important to understand that in the 1850s mental illnesses were often related to moral failings and superstitions. Treatments were primitive and often inhuman for the people suffering.

Since then, There has been a remarkable increase in the interest and understanding of mental health and well-being, leading to the emergence of new disorders, illnesses, and types of

therapeutic approaches. The emergence of psychoanalysis in the early 20th century, followed by the development of various psychotherapeutic techniques and psychotropic medications, provided more humane and effective treatments. The latter half of the 20th century saw a shift towards community-based care, deinstitutionalization, and the promotion of patients' rights, recognizing the need for dignity and respect in mental health care¹⁵.

In 1971, there was an attempt by the Law Commission of India to revisit Section 84 in their 42nd report, but no changes were made. A report according to the National Human Rights Commission, NHRC, India said that all the 46 Government Mental Healthcare Institutions across the country are in deplorable conditions and depict a very pathetic handling by the different stakeholders¹⁶.

Given these developments, there is a pressing need to reform and rewrite Section 84 of the Indian Penal Code to reflect the changes in our society and to avoid miscarriage of justice. The legal system has to meet the fundamental rights given in the constitution and the international fundamental rights criterion to become a more efficient system.

One of the primary causes of the challenges in the mental health field is the inadequate allocation of resources and lack of proper funding. Mental health has historically been given lower priority within the system, resulting in minimal progress and development in this critical field, which is a fundamental human necessity. It is imperative for the government to prioritize the improvement of mental health facilities in India, especially considering the current state of society. Additionally, there is a crucial need to promote and support students who aspire to pursue psychology as a career and academic major, as they play a vital role in addressing mental health issues in the country.

There is an urgent need to initiate and execute comprehensive campaigns and programs aimed at raising awareness about the rapid increase in these illnesses. Increasing awareness will play a crucial role in early recognition of the problem and prompt seeking of treatment, thereby preventing the illnesses from progressing to a severe or devastating stage.

¹⁵ Edward Shorter, *A History of Psychiatry: From the Era of the Asylum to the Age of Prozac* (John Wiley & Sons 1997).

¹⁶ National Human Rights Commission, 'NHRC says all the 46 Government Mental Healthcare Institutions across the country depict a very pathetic and inhuman handling by different stakeholders; issues notices' (NHRC, 25 January 2023) <https://nhrc.nic.in/media/press-release/nhrc-says-all-46-government-mental-healthcare-institutions-across-country-depict> accessed 17 June 2024.

It is absolutely essential to enforce mandatory mental health screenings before the trial, not just to filter out severe mental illnesses such as schizophrenia and sociopathic disorder, but also to assess individuals' fitness to stand trial and identify any existing mental health issues. Failing to do so could lead to these conditions worsening in the challenging prison environment. Enhancing mental health services within correctional facilities is paramount in assisting individuals to conquer their obstacles and thrive as better individuals, also saving precious time for the court.

In the legal context, it is essential to have the presence of a qualified psychiatrist during trials to thoroughly evaluate the mental state of the defendant and provide necessary support. Documentaries often provide insight into the complex factors that contribute to individuals committing heinous acts, allowing us to gain a deeper understanding of the underlying causes. It is imperative for a psychiatrist to have a comprehensive understanding of an individual's mental state from the initial stages leading up to the commission of the crime in order to devise and implement effective treatment strategies. Introducing mandatory mental health screenings before trials concerning severe offences such as murder or homicide could significantly optimize the court's proceedings and offer more suitable alternatives for those involved.

Raising awareness and providing support are vital components in assisting individuals who are grappling with severe illnesses. It is essential for us to actively work towards reducing stigmatization and to spread awareness about the multitude of challenges that these individuals face. Doing so can encourage people to approach their needs with more compassion and empathy. Furthermore, spreading awareness serves the dual purpose of not only facilitating their access to support but also fostering an environment where individuals are viewed through a lens of understanding rather than being unfairly labelled as bad people.

INSANITY: LEGAL LOOPHOLE OR LIFESAVER?

There is a common misconception that the defence of insanity is often used as a legal loophole by individuals trying to evade accountability. However, it is essential to understand that every rule and regulation can be a double-edged sword. Being granted the defence of insanity does not equate to walking free; rather, it entails being committed to a mental asylum where individuals receive specialized care and a conducive environment for addressing their traumas and deep-rooted issues through therapy.

The defence of insanity serves as a means for our legal system to demonstrate empathy and compassion for distressed members of society. By recognizing this defence, the legal system acknowledges the vulnerability and incapacity of individuals due to mental illness and emphasizes the need for treatment over punishment. The role of the law is to facilitate individuals in becoming better versions of themselves rather than simply incarcerating them.

The defence approach is centred on the principles of humanitarian justice, emphasizing understanding individuals in the context of their circumstances rather than solely based on their actions. Instead of perpetuating harsh incarceration conditions that would further degrade the condition of those involved, the focus is on providing a more compassionate and rehabilitative environment.

The insanity defence is a critical and indispensable component of the legal system as it provides a lifeline for individuals with mental illness. It rightly upholds the concept of equity or "equal treatment for equals". It is a manifestation of compassion that upholds human rights, guarantees fairness, and advances public safety. By acknowledging the distinct challenges faced by those with mental illness and affording them the essential treatment and support, insanity ensures that justice is dispensed in a manner that is not only compassionate but also effective. Rather than being viewed as a mere legal loophole, it should be recognized as an essential element of a fair and empathetic legal framework.