

HOW CRIMINALS USE INSANITY DEFENSE AS A LOOPHOLE

Abstract

In order to better develop and analyze the premise of this article, we will look at how the notions of insanity and unsoundness of mind have changed over time, as well as how this has affected Indian laws. We'll discuss the practicality Indian courts brought to the issue of the article as we go along. The main focus will be on the legal weaknesses of the "insanity defense," how to absolve oneself of criminal liability for one's actions, and how offenders have used this defense to escape punishment. The law is open to abuse by criminals. We have tried to assess whether the law that was passed many years ago is still beneficial or if it is just a formality through this essay.

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Author

Pallavi Soni
Department of School of law
Galgotias University' Greater
Noida, Uttar Pradesh, India.
sonipallavi227@gmail.com

I. INTRODUCTION

The criminal justice system gives both victims and defendants a fair and equal opportunity to state their cases, and it not only provides for the punishment of defendants but also, in some circumstances, allows them to present defences.

The defence of insanity is one of the defences employed by offenders during the prosecution. Mens Rea (guilty mind) and Actus Reus are the two main components that must be established in order to find him guilty of an offense. A well-known concept in criminal law is that an activity must be incorrect or illegal. The law is supreme Actus Non-Facit Reum Nisi Mens Sit Rea, “meaning” A man is not criminally accountable for an act unless his mind is likewise accountable;

As a result, in order to hold someone liable, the crime must be committed and the crime must be intended. However, according to section 84 of the Indian Penal Code, a person who is insane is unable to rationally decide what is right or wrong. The law assumes that a person cannot have a guilty mind and should be released if they are unable to discriminate between right and wrong. The defendant is therefore exempt from the death penalty thanks to the defence of insanity or unsound mind. When a person’s mental illness becomes so severe that they are unable to distinguish between fantasy and reality, it is known as insanity, an extremely dangerous condition.

II. HISTORY OF INSANITY DEFENCE

Both professional studies in psychiatry and psychology are disqualified by the insanity defence, which predates ancient civilizations like the Talmudic, Greek, and Roman. The insanity defence has undergone decades of judicial growth within case law, during which time judges were inspired by legal experts including Henry Bracton. Although it is not a brand-new concept, the defence of insanity against criminal behaviour has existed for a very long time. Insanity should be free from criminal punishment because, like children, those who are insane are unable to develop the purpose required to commit a crime, according to Brocton, the author of the LAWS AND CUSTOMS OF ENGLAND, who made this observation in the thirteenth century.

One of the oldest known uses of the insanity defence in case law can be found in the 1724 decision in the case Rex v. Arnold. It was developed in England. The jury there received the following directions from the judge: A defendant had to be entirely memory and understanding-less, incapable of understanding what he was doing any more than a kid, a savage, or a wild animal-in order to be exonerated due to insanity. In 1800, James Hadfield gained notoriety as the would-be killer who influenced the insanity defence. The Wild Beast test, the Insane Delusion test, and the capacity test are a few ways to determine if someone is legally insane. Laying the foundation for the storied Mc Naughten Rule was laid by these three tests.

According to the M’Naghten Rule (or test), which was established by the English House of Lords in the middle of the 19th century, every man is to be presumed to be sane and to establish a defence on the grounds of insanity, it must be clearly proven that, at the

time of the committing the act, the party accused was striving under such a defect of reason, from disease of mind, and not to know the nature and quality of the act he was committing.

As an example, a daughter murdered her mother and father and then waited for the cops to show up. Three mental health doctors who testified said she was too psychologically ill to understand how her criminal behaviour was wrong. After being found not guilty by reason of insanity, she was given a ten-year prison sentence in a mental institution. A legendary precedent for the law governing the use of insanity as a defence was set by the Mc Naughten judgment. Even in India, the law governing the insanity defence, Section 84 IPC, is entirely based on the Mc Naughten recommendations.

III. INSANITY AS A DEFENSE IN INDIAN LAWS

The Indian Penal Code (IPC) and the Code of Criminal Procedure (CrPC) both regulate the use of insanity as a defence in India. Section 84 of the IPC deals with the defence of insanity. Act of a person of unsound mind—nothing is an offense which is done by a person who, at the time of doing it, by reason of his or her unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to the law.

A person who, at the time of committing an offense, had a mental illness that prevented them from comprehending the nature and effects of their actions or knowing that they were wrong or illegal is exempt from criminal liability, according to this section.

It is the burden of the accused to establish that they were of unsound mind at the time of the offense when pleading insanity as a defence. This means that they must provide evidence that they have a mental condition that impairs their mental faculties and judgment. The defence has the burden of proof, thus they must present proof to support their allegation of insanity.

The accused may be exonerated on the basis of Insanity if the court is satisfied with the evidence and determines that they were genuinely not of sound mind at the time of the crime. Depending on the court's ruling, the accused might instead be transferred to a mental health hospital for assessment and treatment rather than being freed right away.

It's Important to emphasize that the defence of insanity is rarely used in India and that, when it is, it can be difficult to establish. In India, different regions and jurisdictions may have varied perspectives on mental health and the treatment of mental diseases.

IV. MEDICAL INSANITY VERSUS LEGAL INSANITY

Legal insanity is a specific defence that an accused person may employ to contend that they were not of sound mind when they committed the alleged crime, according to Section 84 of the Indian Penal Code (IPC). This defence tries to defend those who were unable to comprehend the nature of their activities or recognize that what they were doing was illegal or against the law because of their mental state.

Medical and legal insanity are two different things. Medical insanity is a medical diagnosis provided by mental health professionals, but legal insanity is a legal defense that must be proven in court. Not every person with a mental illness will be immediately exempt from criminal culpability since the court is concerned with legal insanity.

Under Section 84 of the IPC, the accused who asserts legal insanity is required to provide evidence. The burden of proof rests with the defense to show that the accused was mentally ill at the time of the crime, impairing their cognitive functioning to the point where they were unable to appreciate the nature of their conduct or recognize that they were wrong or illegal.

Understanding “Unsoundness of Mind”: In Section 84 of the IPC, the term “unsoundness of mind” is frequently used to refer to insanity. It should, however, be understood in the context of the numerous sorts of mental diseases to which it relates. Legal insanity is not a defence that can be used in every instance of mental disease.

Requirement for Qualifying Legal Insanity: According to Section 84, it is not sufficient to simply exhibit some peculiar behaviours or to suffer from a physical or mental ailment. The accused must establish that their mental state was so severely impaired at the time of the crime that they were unable to comprehend the nature and repercussions of their actions in order to effectively assert this defence.

Legal vs. Medical Community Perspective: Although the accused may be deemed mentally ill by the medical community, this is insufficient to prove legal insanity in a court of law. The most important factor is whether the accused had cognitive impairment at the time of the crime that prevented them from knowing what they had done.

Let us talk of a case to understand it better:

The defendant in *Jai Lal v. Delhi Administration* was a former schizophrenic patient. He stabbed a six-month-old infant to death, killing him and injuring a few others in the process. He claimed not guilty due to insanity, but the Hon’ble Supreme Court rejected his appeal after considering his actions after the crime, including hiding the knife, locking the door to avoid being arrested, trying to flee through the back door, and trying to disperse the gathering.

In *Seralli Wali Mohammad vs. State of Maharashtra*, the Supreme Court rejected the plea of insanity as mere non presence of motive or no attempt to escape was not sufficient to show the absence of mens rea.

V. BURDEN OF PROOF

Everyone is assumed to be mentally sound and accountable for their conduct in the eyes of the law until proven differently. The burden of showing that an accused person was legally insane at the time of the offense is with them if they desire to invoke the insanity defence under Section 84 of the Indian Penal Code. This means that they must demonstrate that, as a result of their mental state, they were unable to comprehend the nature of their activities or that they were unaware that they were wrong or against the law.

The Supreme Court declared in *Anandrao Bhosale v. State of Maharashtra* that the accused who is attempting to take advantage of Section 84 at the time the offense is committed has the burden of proving that they were not of sound mind. This highlights the requirement that the accused present strong proof to back up their assertion of legal insanity.

VI. POSITIVE ASPECT OF INSANITY

A crucial legal theory known as the “insanity defence” distinguishes between someone who is mentally ill and someone who is fully conscious of their actions. It recognises that people who suffer from mental illnesses might not understand the effects of their actions, much like young children. Convicting such people would be unfair because they cannot understand why they are acting the way they are.

The defence is especially important for those who are mentally ill because it gives them the chance to obtain proper care and rehabilitation as opposed to severe punishments like the death sentence or extended incarceration. Even if they accept wrongdoing, a more sympathetic and therapeutic approach is required due to their incapacity to understand the seriousness of their conduct.

Society recognizes the intricacy of mental illness and how it affects a person’s capacity to fully understand the wrongness of their conduct by allowing the insanity defence. It emphasizes how critical it is to address mental health concerns in the judicial system and make sure those affected get the help and care they require to live fulfilling lives while being held accountable for their acts in a reasonable and humane way.

VII. NEGATIVE ASPECT OF INSANITY DEFENCE

The use of the insanity defence in legal cases has become a common strategy for accused individuals, even those who are actually sane. It is difficult to determine a person’s mental state at the time of the crime, and as a result, many defendants frequently claim insanity as a defence. Ultimately, the judge’s decision plays a crucial role in the case, and the law’s significance may diminish.

Not only people with mental health concerns can take advantage of this defense. Although the legal system attempts to treat people with mental illness equitably, some sane people inappropriately misuse this defence. Some nations, notably Germany, Argentina, Thailand, and some parts of England, have completely abolished this defence as a result of this misuse.

One significant problem is that it is incredibly difficult because it is the onus of the accused to establish sanity. It is even harder to prove legal insanity than it is medical insanity, as needed by Section 84 of the IPC (Indian Penal Code). As a result, many legitimate cases where mental illness is a real contributing element may result in the accused receiving an incorrect conviction and punishment.

The Insanity defence often leads to lengthy legal proceedings due to the need for extensive psychiatric evaluations and expert testimonies. This can result in delays in justice for both the victims and the accused.

Some criminals may attempt to fake or exaggerate mental health issues to exploit the defence and avoid accountability for their actions. This undermines the credibility of the defence and can have adverse consequences for genuinely mentally ill defendants.

VIII. IRRESISTIBLE IMPULSE AS A DEFENCE

Irresistible impulse is a form of insanity in which a person is incapable of controlling his behaviour, even though he is aware that the behaviour is bad.

- 1. Under English Law:** In the well-known case of Lorena Bobbit (1993) the defendant took a knife from her kitchen and injured her husband by severing his penis while he was sleeping. This led to the development of the irresistible impulse defence. Her attorneys claimed that she had experienced domestic abuse from her husband during their marriage and that his spouse had even sexually assaulted her before committing this act. Despite being well aware of the repercussions, she was unable to restrain herself and insisted on giving in to an overwhelming need. She was found to be innocent since she was temporarily insane.
- 2. Under Indian Law:** Irresistible impulse does not fall under the criteria of insanity since Section 84 of the Indian Penal Code does not apply to it.

It was decided that insanity had to be demonstrated at the time the act was committed in order to qualify for an exemption under section 84 in the case of Kannakunnummal Ammed Koya v. State of Kerala (1967). Indian law does not recognize this as a defense, even if it could be shown in court.

The simple fact that the accused committed the murder because of an uncontrollable craving and that there was no other evident reason for it was said in a different case, Ganesh v. Shrawan (1969), that it cannot be justified by the fact that there was no other obvious reason for it.

IX. LANDMARK CASE

- 1. Shrikant Anandrao Bhosale v. State of Maharashtra:** Shrikant Anandrao Bhosale was a police officer accused of murdering his wife by striking her in the head with a grinding stone. However, during the trial, the defense of insanity was raised, and it was revealed that the appellant had a family history of mental illness, including his father. The appellant was undergoing treatment for his mental illness, diagnosed as paranoid schizophrenia.

The court determined that due to his mental condition, the accused was unable to comprehend the nature of his actions and the consequences of his deeds. As a result, he was found not guilty of murder under section 84 of the Indian Penal Code, which grants the benefit of insanity as a defence. The lack of a clear motive, the immediate actions

taken after the incident, and the history of mental illness were considered as crucial factors in the court's decision to acquit him of the murder charges.

2. **Ashirudeen Ahmed v. The King:** Was meant to develop a new test. According to the findings, in order to qualify for protection under Section 84 of the IPC,

A defendant is required to present proof of one of the following:

- Didn't know the action was unlawful;
- didn't know the action was unlawful;

3. **Dayabhai ChhaganBhai Thakkar v State of Gujarat:** In the case of Dayabhai ChhaganBhai Thakkar v. State of Gujarat, the court considered the defendant's mental state as a crucial factor in determining their culpability for the offense. It was observed that only the circumstances leading up to, during, and following the offense should be considered to assess whether the defendant's mental state qualifies for protection under Section 84 of the Indian Penal Code (IPC).

In the *Bapu Gajraj Singh v. State of Rajasthan* decision, the Supreme Court provided clarity on the types of illnesses that can be considered for the defense of insanity under Section 84. The defense would not apply to conditions such as unusual, egotistical, or impatient behavior, or disorders that solely affect the will, emotions, and intellect. Additionally, occasional displays of insanity symptoms or epileptic convulsions by the defendant, while otherwise acting normally, would be insufficient to invoke the defense of insanity.

4. **In Hari Singh Gond v. State of Madhya Pradesh:** In the case of *Hari Singh Gond v. State of Madhya Pradesh*, the Supreme Court clarified the legal standard of accountability concerning alleged mental illness, as stated in Section 84 of the Indian Penal Code (IPC). The term "madness" has often been associated with insanity in legal contexts, but its precise definition remains unclear. It is a broad term encompassing various levels of mental illness severity, leading to ambiguity in holding individuals with mental health conditions accountable for their actions.

The court emphasized the need to differentiate between "legal insanity" and "medical insanity." While medical sanity is a medical or clinical concept, legal insanity pertains to whether the defendant can be held criminally responsible for their actions. To claim the defense of insanity under Section 84 of the IPC, it is essential to establish legal insanity, indicating that the accused was incapable of understanding the nature and consequences of their actions at the time of the offense.

This ruling was reaffirmed in the case of *Surendra Mishra v. State of Jharkhand*, emphasizing that it is the legal aspect of insanity that must be demonstrated to exonerate a defendant from criminal responsibility under Section 84 of the IPC. Medical insanity alone cannot be used as a defense in criminal proceedings. The court's stance underscores the importance of assessing the accused's mental state within the legal context to determine their culpability for the alleged crime.

X. INSANITY AS LOOPHOLE FOR CRIMINALS

The Indian Legal Statute includes an insanity defence to protect the insane person who, because of their unsound mind, is unable to discriminate between right and wrong. Adopting this defence may result in insane people receiving very little punishment or even no punishment at all. But in order to do that, the psychiatrically insane must offer reasonable evidence that establishes their insanity and mental instability in the eyes of the law, such as declarations of their inability to comprehend the consequences of their actions.

However, criminals of sound mind who are conscious of the consequences of their actions and can discriminate between right and wrong behaviour abuse this defence to escape punishment for the crime they commit.

When they commit heinous crimes like rape, murder, kidnapping, etc., which come with harsh and severe penalties like the death penalty, criminals abuse this reasoning.

Criminals who are completely competent and of sound mind commit crimes and claim to be insane in court because they believe they may easily evade punishment after committing some horrifying crime if they chose to utilize the insanity defence. What is most amazing is that, occasionally, some people even succeed in getting this defense by proving their own craziness. They deceive the doctors, fabricate the records, and reveal their mental instability. This may have a lot to do with the two major social evils in the country: corruption and poverty. The affluent man who currently resides in their AC chambers regularly abuses both their power and the court system. Even the witnesses and the evidence could be manipulated and made up by the criminals.

Nowadays, criminals utilize insanity as a pretext. The administration of justice is slowed down because it is challenging to prove insanity and because it takes a long time to persuade judges that the person is mentally ill. The accused could abuse the legal system as a result of the delay. Criminals who intentionally misuse the law to take advantage of the justice delivery system are well aware of their conduct and the consequences of those actions. They are well aware of the repercussions of their conduct and have every motive to commit crimes like rape or murder because they want to be punished.

Since a person's mental condition can be altered on paper, it is extremely difficult to identify whether or not they are mad, the claim of insanity leads to a swift conviction and, in certain situations, no charges of punishment. The judge will decide whether to find in favor of the accused or against him and whether to punish him or not once all the evidence has been presented in court.

The criminals in the majority of these cases are so powerful that they may intimidate judges and even pay them to find in their favor because of their substantial financial support and political ties. Some criminals pose such a serious threat that they legitimately take the lives of people who work in the legal system. Additionally, it has been seen that these people, and in some cases, their families, suffer from a loss of goodwill and reputation in society.

The criminals use this defense with no fear and the false conviction that they are now untouchable and at liberty. They think justice is located beneath their feet and that the legal system is dormant. Criminals are still able to get away with their crimes by claiming insanity, which is the biggest legal loophole, due to several faults in the judicial system, despite numerous revisions and stringent standards.

XI. CONCLUSION

The benefit of the insanity defence is that it shields people with real mental diseases from disproportionate punishment, but it also raises questions about possible abuse. Its alleged abuse is attributed to a number of variables, including:

- Widely used defence: In the modern day, some people believe that the insanity argument has been overused as a way to avoid criminal responsibility.
- It might be difficult to pinpoint a defendant's precise mental state at the moment of the offense, which makes determining their guilt more difficult.
- Legal versus mental insanity: The application of the defence is complicated by the contrast between legal and mental insanity.
- Subjectivity is involved in assessing eligibility because it depends on the details of each case whether the accused is deserving of the defence.
- Contrary to other defences, the insanity defence calls for the accused to admit to the offense while claiming ignorance of or lack of control over their acts.

Due to these considerations, the insanity defence is now a more widely used and modern strategy for perpetrators to escape accountability for their purposeful crimes.

According to recent study, criminals who are mentally ill are more likely to be apprehended later on for criminal activity, particularly violent offences. However, there aren't many thorough comparisons between people with a history of mental illness and criminal activity and people who haven't been admitted to a mental hospital but are of a similar age, sex, and socioeconomic position.

There is no proof that the individual found not guilty by reason of insanity is any less of a threat to public safety than his sane peer, but we cannot claim that he is any more likely to commit a new violent crime than is a sane, but otherwise comparable, exoffender. In terms of community protection, there is no justification for seeing a violent criminal who was found guilty but wasn't held accountable due to a mental illness as any less of a threat than a criminal who was found guilty and was sane.

If punishment, retaliation, or getting our fair desserts is the justification for incarceration, the harm caused by the insane defendant and the insult to society norms are no less severe than those caused by the sane defendant acting out of passion, recklessness, or criminal carelessness. There is also a case to be made against the insanity defense in the sake of deterrence. It is frequently difficult to convince someone who has been found not

guilty due to insanity and is currently receiving psychiatric medication to keep taking it, which reduces his predisposition for violence. If the person were to fail to take the medication, have a relapse, and commit another crime, the possibility of going to jail might be enough to keep them on the prescription.

People might be motivated to actively participate in psychotherapy if it was required. Finally, for the rare but potential person who would fabricate insanity in order to secure a quick release, the advantages of a successful insanity defense would be considerably lessened.