

Mental Illness: A Study of Medico-Legal Approach

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Abstract

The fundamental rule of Criminal Jurisprudence is that to prove criminal liability of a person in the eyes of law, the most important element which is essential to prove the liability of accused is that, at that time when the act was committed, the accused had adequate mental aptitude to form criminal intention. Therefore, the children of “tender age”, means children below the of age 7 years are exempted from criminal liability as it is presumed under law that they are incapable to form the ‘mensrea’ that is ‘guilty intention’ and because of this reason only if the accused in insane there is protection given to him under criminal law and him his criminal liability is exempted under section 84 of Indian Penal Code, 1860. The immunity provided on the ground of the insanity is basically available on the conjecture that, at that time when the offence was committed, the defendant was unable of knowing the nature and quality of the action and he was not able to differentiate between right and wrong conduct, thus making him not lawfully answerable for offence. This article elaborates the term insanity and origin of Insanity as a defense and talk about the well-known Mc’Naghten case which is known worldwide as the precedent of insanity laws in the recent times.

Key Words: Insanity, defence, protection, guilty intention, criminal liability

Introduction

Under criminal law, every mental illness is not exempted from criminal responsibility, but the mental illness must be shown to be one which impairs the cognitive faculties of the accused i.e. the ability of indulgent the nature of his act in its behaviour on the victim or in relation to himself i.e. his own responsibility for it. The famous jurist Blackstone, defined Idiots as the persons who are born deaf, dumb and blind. Idiots and lunatics are to be exempted from the responsibility of offence if the offence are committed by them under labouring under these incapacities i.e. lunacy or insanity. The Indian law on defence of unsoundness of mind is mentioned under section 84 of the Indian Penal Code, according to which, a person is exempted from criminal responsibility because of unsoundness of mind, “he was either incapable of knowing the nature of the act at the time of commission of crime, or what he was doing was either wrong or contrary to law.” One of the essential elements of a crime is mensrea, the guilty mind or evil intent. There can be no offence without a guilty mind and intent. The presence of mental element is must in every crime. That is why the maxim, “actus non facit nisi mens sit rea”, which means intention and action both are required to constitute the crime, is considered to be a fundamental principle of penal liability¹. It is not like that, every person who is mentally unstable is provided immunity from the legal responsibility under criminal law instead the

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¹ O.P. Srivastava: Principles of Criminal Law 3rd. ed. 1997, Eastern Book Company, Delhi p.10

immunity under this section can be alleged when, “the insane person is incapable of knowing the nature of the act’ or ‘he is doing either wrong or contrary of the act is to be determined.” Merely proving that the alleged person is going through some form of medical insanity is not sufficient. The defence of insanity cannot be given unless it is confirmed that the alleged person was suffering from legal insanity, the defence of insanity cannot be granted by court. The burden to prove the defence of insanity always lies on the defendant.

Classification of Persons of unsound mind which can avail the defence of Insanity:

A lunatic is non compos mentis. There are four types of persons who are of unsound mind non compos mentis²

(i) An idiot: An idiot is one who from birth had defective mental capacity this infirmity in him is perpetual without lucid intervals. Those who cannot count till twenty or tell the days of a week, or who do not know their fathers or mothers are idiots.

(ii) One made unsound by illness: A person who made non compos mentis by illness is therefore, exempted from criminal liability only when he acts under the influence of that disorder.

(iii) Lunatic or a mad man: lunatics are those who become insane and whose incapacity might be temporary or intermittent. Madness is counted in permanent lunacy. Lunacy and madness are spoken of as acquired insanity, while idiocy is understood as natural insanity

(iv) One who is intoxicated as defined in Section- 85 of IPC

Types of Insanity:

- Temporary insanity, it is a situation, where a person is demented just for a fixed time. Example of some this kind of mental illness includes sadness, fretfulness disorders, schizophrenia, intaking meals disorder and other types of abnormal behaviours. The defence which are available to this insanity are; One cannot be held guilty as he is insane and the same person cannot be tried because he is insane.
- Permanent Insanity, it is a state where an individual is carrying on a psychological disease constantly. This can be confirmed commencing previous medical history along with the incidents that had occurred in past and it can be proved that the person is enduringly insane and is incompetent of accepting the severity of any circumstances.
- Medical insanity: According to medical science³ insane persons may be divided into following two type:
 - First, those who once were normal but have become abnormal, whether because of the disorder of mind, i.e. lunatics, or through decay of mind;
 - Secondly, those who never had full power, e.g.
 - a. *idiotic persons* so mentally defective that they are not capable to protect themselves from common physical dangers.

²B.M. Gandhi: Indian Penal Code 4th ed. Eastern Book Company Lucknow.p.128

³ Kenny: Outlines of Criminal Law 17th ed. P. 82.

- b. *Imbeciles*; the persons whose ineffectiveness do not amount to idiocy but are incapable of managing themselves or their affairs.
- c. *the weak-minded*; the persons who need affection, control and supervision for their own defence or for protection of others.
- d. *Moral defectives*; the persons where exists mental defectiveness coupled strongly vicious or criminal propensities and who need concern, directions or management for the safety of others.

Persons belonging to the second group are two incapable of self-control to be deterred effectually by fear of punishment. Therefore, instead of passing a sentence the court which convicts places them under guardianship or sends them to institution for mental defectives

- Legal insanity: According to legal insanity⁴ the insane persons are divided into two classes, First are the persons, over whom criminal law apply no prohibition and control, consequently, it would be cruel to impose sentence on them, as well as the second type of persons are, those whose mental would not have been resulted to insanity if a police officer had been at their elbow. Such persons are punished by criminal law. It becomes very difficult to draw the line to demarcate the above two classes and the law has gradually developed in drawing the line between them which have indicated above.

Difference between medical insanity and legal insanity:

According to medical science, it is possibly right to say that every man while committing the crime have probably lost his or her mental control and therefore needs to be exempted from criminal liability. But according to law, a man considered to be sane as long as he can make a distinction between right and wrong and the same is incorporated in provision of section 84 of the Indian Penal Code, 1860. Thus, it is clear that Insanity is a completely different thing from medical and legal point of view. "Doctors exist to cure physical and mental illness, judges and juries exist to guard the life, property and welfare of society."⁵ Therefore it is clear that the function of judges covers a larger area than that of the doctors. Therefore, they will naturally grant exemption from liability only to those persons who suffer from such a mental derangement as satisfies the legal test. The judges will, therefore, not be guided by the medical standards on insanity. The wise injunction in this matter is to keep the expert, that is, the medical evidence, on the tap and not on the top. In other words, we should keep the medical opinion in a cask ready to be drawn and not to be dictated by it in all cases.⁶ In **Sudha Karan v. State**⁷, "the Supreme Court has distinguished the legal insanity with medical insanity and observed that the defence of insanity has been well known in the English legal system for many centuries. In the earlier times, it was usually advanced as a justification for seeking pardon. Over a period of time, it was used as a complete defence to criminal liability in offences involving mens rea. It is accepted that insanity in medical terms is distinguishable from legal insanity. In most cases, in India, the defence of insanity seems to be pleaded where the offender is said to be suffering from the disease of schizophrenia."

⁴R.C.Nigam: Law of Crimes In India vol. 1 University Press Lucknow p 364

⁵ Carswell, Trial of Ronald True, p. 246

⁶ A. L. Goodhart: Recent Tendencies in English Jurisprudence, Canadian Bar Review, 1929

⁷ 46 of 56 Kerala 2010 (10) SCC 582.

In the case of **Surendra Mishra v. State of Jharkhand**⁸, “the Supreme Court has been explored the law relating to unsoundness of mind and held that the accused has to prove legal insanity and not the medical insanity. Every person who is suffering from mental illness is not ipso facto exempted from criminal liability and the burden of proving unsoundness of mind under section 84 which is one of the exception of chapter IV of Indian Penal Code, lie on the accused on preponderance of probabilities. To discharge the onus, the accused must prove his conduct prior to offence, at the time or immediately after the offence, with reference to his medical condition. Whether the accused knew that what he was doing was wrong or it was contrary to law is of great importance and may attract culpability despite mental unsoundness having been established and the accused has to prove legal insanity beyond all reasonable doubt.”

The same principle has been followed by the Supreme Court in **Guahati Court in Kalpana Patgiri v. State of Assam**⁹. It was held that, “every person who is mentally diseased, is not ipso facto exempted from criminal liability. There is a distinction between legal insanity and medical insanity and the burden of proof lies on the accused to prove his insanity. The burden is not as onerous as that cast upon the prosecution to prove that the accused committed an act with which he is charged with. As per law, medical insanity can be proved by producing medical prescription, etc. to prove legal insanity defence has to examine witness who know about past history of the accused that he or she, in the past, was suffering from mental disorder or insanity and it continues to be so till the date of occurrence and thereafter also”.

Origin of Insanity Defence

Since the time of ancient Greece and Rome, A condition linked to defence of insanity was initially evidenced in the year 1581, In English legal treatise; in which, a lunatic cannot be made liable if in the moment of his lunacy he murder anyone. With developments in criminal jurisprudence, in the 18th century, the British Courts introduced the “Wild-Beast Test”. According to this test, a defendant could not to be held guilty if he had an understanding of “an infant or a ‘wild-beast”.

Wild-Beast Test

The above mentioned test was the foremost official endorsement which gave the boost to the initiation of insanity as defence. It was held in the case of “**Arnold in 1724**” by Justice Tracy (a 13th Century Judge in King Edward’s Court), firstly laid down the groundwork for insanity protection when the jury was inculcated by him that if the defendant is found to be a “madman” which he described as “a man that is totally deprived of his understanding and memory, and do not know what he is doing, no more than an infant, than a brute or a wild beast, such a one is never the object of punishment.”

Good and Evil Test

The above mentioned assessment was founded in, “**R v. Madfield**”. According to the facts of this particular case, the accused was labelled as the charge of attempt to murder the king. The defence appeal that he was not competent to make a distinction between “good and evil” and “wild beast test” was difficult to deal with. The principle founder in this case was the capability to

⁸ AIR 2011 SC 627; (2011) Cr.LJ 1161.

⁹ AIR 2013 (5) GLR 139 Guahati

differentiate among good and evil and the alleged person was acquitted in this case on this ground only.

McNaughton's test

The British Court in the most famous case of "**R. v. McNaughton**", invented the "**McNaughton's test**" which is the grundnorm of present law of insanity and moreover the source of section 84 of the Indian Penal Code, 1860 is also based on McNaughton's case. In the overtalked about case, a man whose name was McNaughton, murdered a person named Edward Drummond under the belief for someone else.

McNaughton case, the delusion test was originated in "**Hadfield's case**" and the "right and wrong test" was highly developed in the second cases. Therefore there are two afforded assessment tests for insanity. An attempt was done additionally in the rule of insanity in this famous case of McNaughton, where a Scotsman who in 1843 was tried for the killing of Edmond Drummond, Private Secretary to Sir Robert Peel, former Prime Minister. Daniel McNaughton was in illusion that Sir Robert Peel had injured him and thinking him Drummond as Sir Robert Peel, he gunshot and murdered him. The trial began in London before Tindal C.J. with two other Judges and was defended by Mr. Cockburn. The accused appealed insanity in his defence and gave medical verification according to which the alleged person was underneath a depressing hallucination and his mind was out of his own control. The Chief Justice said to the judges that, "the question before them to be determined was whether at the time of committing the act he had or had not the use of his understanding so as to know that he was violating the laws of God and man?" The accused was released on the defence of insanity.

The McNaughton's trial was a matter of debate in House of Lords as it was a reason of discussion on mouth of every law expert at that time. This decision was a sensation in the field of grounds of defences and was proved to be the topic of argument. Because of the consequence of this, the House of Lords called on the seat of fifteen judges to make the law on criminal legal responsibility in the situation of alleged Insanity. This track was supposed to have been adopted with an outlook to some law after that considering on which action appears to have been taken. Fourteen judges out of fifteen judges from the bench were on one elevation in their replies whereas only one judge Maule J. Was on different side and gave different arguments for his answers which, though, did not significantly be in variance from his fellow judges. The decision which was decided by the majority of the judges was conveyed by Tindal C.J. The issues and their solutions are which were discussed in this case are acknowledged as the "McNaughton Rules" which are the foundation of the modern time's law on insanity. Although the McNaughton's Rules do not amount to judicial decisions, but the postulates set by this case still considered as reliable explanation of the legislations related to insanity.

Five propositions

The McNaughton's Rules possibly be summed up in the following five propositions:

- (i) That every person is assumed to be sound and to possess an adequate amount of responsibility for his offence, until the opposing be proved to the satisfaction of the jury or the court.

- (ii) To establish defence on the ground on insanity it must be clearly shown that at the time of committing the act, the accused was labouring under such a defect of reason from disease of mind, as not to know the nature and quality of the act he was doing, or if he did not know it, that he did not know that what he was doing was wrong.
- (iii) If the accused was conscious that the act was one which he ought not to do and if that act was at the same time contrary to the law of the land, he is punishable.
- (iv) A medical witness who has not seen the accused before trial should not be asked whether on evidence he thinks that the accused was insane.
- (v) Where the criminal act is committed by a man under some insane delusion as to the surrounding facts, which conceals from him the true nature of the act he is doing, he will be under the same degree of responsibility as he would have been on the facts as he imagined them to be.

Therefore, it is apparent that the insanity test is in the authority of distinguishing among right and wrong not in the conceptual but with look upon to the scrupulous act that has happened. As regards the fourth rule stated above, for example, he may kill under the thoughts either that he is an executioner lawfully carrying out a judicial sentence, or merely that the person killed had once cheated him at cards; in either case he shall be held legally responsible. In support of a defence of insane hallucination, the alleged act required to be associated with the hallucination directly.

These principles proved to beguide for the law related to insanity. The rules put emphasis on the examination of understanding of an accused in case where there is ananalysis of finding what is right & wrong.

Law of Insanity in India

Chapter IV i.e. section 76-106 of the Indian Penal Code, 1860deals with general exceptions. Defence of Insanity means section 84 is alsofalls in this Chapter. This section is based upon the maxim “actus non facitreum, nisi mens sit rea” which simply means an act is not criminal unless it is accompanied by criminal intention. “The settled position of law is that every man is presumed to be sane and to possess a sufficient degree of reason to be responsible for his acts unless the contrary is proved”¹⁰. According to Section 84,“a man who is, by reason of unsoundness of mind, prevented from controlling his own conduct and deprived of the power of passing a rational judgement on the nature of the act he meant to do cannot be legally responsible for the act”. “If a man because of mental disease is prevented from controlling his own conduct and a man who is deprived, by disease affecting the mind, of the power of passing a reasonable judgement on the moral character of the act he meant to do, then he is at liberty to take theadvantage of this section. A human is no more than a mere mechanical machine which, when put in motion, performs its powerful operations on all that comes in its way, without consciousness of its own effect, or responsibility for them. In other words, the human being under the influence of madness has no will, but does what he is not conscious or sensible of doing and therefore cannot be made answerable for any consequences.”¹¹

¹⁰Lakshmaiah T N(2002) SCC 219; AIR 2001 SC 3828; (2001)9 JT 95

¹¹Rattan Lal Dhiraj Lal : law of crimes 26th ed. Bharat Law House, new Delhi p.306.

According to the above said provision an alleged person is given protection on account of defence of insanity only if it is proved that, "he was incapable of knowing the nature of the act," although the provision also provide the protection when, "he did not know either that the act was wrong or that it was contrary to law, although he might know the nature of the act itself." However, the defence cannot be claimed if there are chances that he had sufficient knowledge that what is done by him is wrong, even though he had no knowledge that he did was against the law and in addition if he had knowledge what he was doing was against the law even supposing he had no knowledge that it was wrong. This section gives protection to the accused if there is absence of the willingness due to weak mental power. Many Jurists have given many reasons to exempt lunatics or those of unsound mind from legal accountability.

The law mentioned in Section 84 of the IPC, 1860 is founded on the 2nd and 3rd principles specified by the hon'ble law lords in the M'Naghten case. To acquire the defence under section 84, there should be three elements are required. Firstly there should be incompetency in knowing the nature of the act; secondly, that the act must be contrary to rule of Law. Thirdly, that the act done was erroneous. The essential amount of time to choose whether the benefit of section 84 can be claimed or not; is the point in time when the crime takes place.

Causes

- (i) Deficiency of Psychological Health workforce: In India, there is shortage of intellectual health workers. There are two mental health workers and 0.3 Psychiatrists present per 1,00,000 people which is greatly inferior as compare to the the world wide standard.
- (ii) The mental health personnel have a discriminatory attitude towards mentally retired patients.
- (iii) Mental health services are not given same priority like other amenities, clean water, food, education, housing and electricity etc.
- (iv) Less knowledge relating to mental health is also one of the reasons of mental illness.
- (v) Stigma attached to mental disorder is the challenges with a mentally ill person. It has an effect on access to work, schooling and wedding of these persons and their family members.
- (vi) Misconception prevalent in societies is also the contributory factor. The leading problem is that the different misapprehensions are prevalent in the society and deficiency of awareness among youth gives youngsters feeling that their mental disease is somewhat to be feeling guilty of. It disseminates additional disgrace along with the easiness, by this means flattering a ferocious sequence. Consequently, mental poor health usually goes unnoticed and without treatment. Individuals have to understand that psychological good health is as important as physical good health.

Suggestions

- (i) In 21st century medicinal equipment will play a very important responsibility in tackling the scarcity of psychological health specialized, for instance telemedicine, fundamental concern along with smart phone apps to make

accessible psychological fitness services in unapproachable regions. Psychological health apps can lessen the trouble on active intellectual health services.

- (ii) There have to be a more elaborated definition of the expression 'medical insanity' to steer clear of the different disagreements or misunderstandings that occur in accepting and discriminating among "mental disease" and the "actual insanity" i.e. legal insanity which is exceptionable under the Indian Penal Code, 1860.
- (iii) The extent of section 84 needs to be extended to integrate the protection of automatism under the defence of an insanitary brainpower, just as it is acknowledged under the English criminal law structure.
- (iv) The mental state test of the accused, who is claiming the defence of inanity, must be done devoid of main questions. The psychiatrist must ask open minded or general questions to evaluate the real state of mental health of the accused.
- (v) The society and family also can play a significant task in tackling cerebral health via dropping disgrace in addition to unfairness, spreading consciousness and endorsing awareness.
- (vi) Community based programme can also play important role to lessen the behaviour gap for psychological problems in India.
- (vii) Mental health programmes at school as well as college level can play an important role in improving intellectual health in learners. Yoga, a customary Indian tradition without which the education was considered incomplete in ancient India, can be an important tool for depressive disorder in modern times too.
- (viii) The internet and the social media platform can play a huge role to spread awareness. They have the power to break taboos and stigmas. The people who have recovered from mental illness can inspire others by telling their stories via the social networking; it is the fastest way to reach out to people.
- (ix) Youth are the makers of the society. Just as charity begins at home, consequently does mental health awareness.
- (x) The need of hour is that constant and regular awareness programmes on mental health disorder should be conducted by government as well as administrative authorities.
- (xi) To reach the goals in the eminence of concern and better results founded on the main beliefs of general concern and impartiality, it is necessary that health service and organisations should be built up and completely approachable to change well-being main concern and priority.

Conclusion

Its mid 2020, but the situation, related to psychological health in India has not altered too much. The corona pandemic and lockdown imposed by governments increased more chances of worsening the mental health of people in India. The disgrace is still emotionally involved to mental illness. The number of psychiatric consultant, psychotherapist and psychoanalyst in India still remain at an extremely bad number. People suffering from mental illness such as depression and schizophrenia are termed 'pagal'. Even educated people don't talk about mental illness openly. In fact, recently when Bollywood came out by a movie titled named, "Mental Hai kya", which was later changed to "Judgemental Hai kya" after a huge drama also says a lot about the mentality of the Indian society

Mental Illness: A Study of Medico-Legal Approach

regarding the fear of being called mental. In conclusion, it can be said that psychological disorders negatively have an effect on a big area of Indian population. India desires to empower a great deal in cerebral strength services to smooth the progress of providing facility where possible and needed; moreover to make available reasonably priced treatment, concern and healing in addition to attempt addition of intellectual and substantial health services. The function of medicinal colleges as well as distinct hospital in providing the mental healthcare should be increased. Outreach services ought to have to be started to plaster not only concern, but psychological health endorsement and cure facilities too.

It seems quite clearly that disposing of the insanity case with a liberal sentencing approach would be more appropriate to tackle this problem today. By looking into the severity of the problem efforts from all three important branches e.g. medical field, behavioural scientists and the law are required. The reason to put insanity in the category of defence, is the absence of free will. Judiciary can play an important role too in adapting liberal approach towards the accused if there are sufficient grounds to prove the insanity. On the other hand, the court can play take adopt the strict approach towards those who are misusing this defence to get away from the criminal liability.