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Insanity as a defence in IPC: A critical analysis

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ABSTRACT

Insanity when viewed from a legal perspective exempts the accused from any responsibility thus discharging him from any punishment which is to be disposed upon. Over a period of time various tests have been developed to determine whether a person suffers from legal insanity or not. Tests such wild beast test which was the first for the cause, decided this critical question, of whether the person in question has the mental capacity to differentiate between right or wrong. Over the period of time, more improved and efficient methods for testing the insanity of a person at the time of the crime were developed, through various legal provisions and precedents.

The author through this research article tries to conclusively summarise the evolution of insanity as a legal defense as well view it from an Indian law perspective. The Indian law does not necessarily use the word insanity but uses the word 'unsound mind' which at times can be used as its synonym. For the defense of insanity to be applicable the unsoundness of the mind should be there at the time of the person committing the crime. This is another place where uncertainty arises and the author tries to address the issue at hand.

Section 84 is often misused by the accused to escape criminal liability, thus creating further menace in society. The researcher tries to figure out whether the current law in question is serving any public good or if it has become a

mere loophole in the current Indian justice system. Thus this research article deals with the evolution of insanity as a legal defense, the current judicial perspective, and various aspects of Section 84 of Indian Penal Law, 1860.

KEYWORDS: insanity, evolution, Indian law perspective, unsound, Section 84, loophole.

I. INTRODUCTION

At the time of the crime, mens rea is considered one of the most important ingredient. But when the act is carried out without having mens rea as an ingredient, it becomes a distinct circumstance that needs special attention by the law. When such a situation occurs, the Indian Penal Code lays down certain general exceptions under sections 76-106. This is in line with the belief that only those who are responsible should be punished.

One such exception is mentioned under section 84 of the IPC, which reads, "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 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."²³¹⁴ This section lays down the defense of insanity which is at times used by the accused and is in a heated debate over its existence. In US states such as Montana, Kansa, Idaho, and Utah this legal defense has been removed by the federal court due to its controversial nature. Even though this law has been kept in place for better justice it is often misused and fails to provide any deterrence. This research article goes into the depth of the exception and tries to study it from the time of its inception. Various different rules are applied to determine whether the insanity clause can be applied to the individual. The research article also summarises the report by the law commission and the recommendations made by it for section 84 of the Indian penal code.

The Indian law on insanity is based on the M'Naghten rule which was propounded in the

²³¹⁴ Indian Penal Code, 1860, § 84, No. 45, Act of Parliament, 1860 (India).

19th century and is being used even now. The M'Naghten Principle comprises both defects in the cognitive and moral capacities of an individual. But nowadays due to advancements in the medical field, there's a demand for a new law dealing with the issue. There has been too much debate around the topic that the research article would try to deal with. There is almost a gap between the existing law regarding the law of insanity and the current advances in medical-psychiatric knowledge. This issue was also highlighted in the judgment by K. M. Sharma in the 1960s. The undertaking by the law is too stringent and follows the principles set forth by a century-old rule. The medical field has found new data and new information has been revealed that should also be incorporated into the law itself.

II. **RESEARCH OBJECTIVES**

- To identify and analyse the genesis of defense of Insanity in criminal law.
- To pin down the various complications with the current criminal procedure regarding insanity.

III. **RESEARCH METHODOLOGY**

The researcher provides a comprehensive view on the topic through a descriptive type research article which is majorly based upon various precedents cited. Primary as well as secondary mode of research has been performed. The literatures that are collected is to study the various inconsistencies in the insanity defense. Therefore for this purpose, the researcher took the help of various articles, journals, research papers as well as various reports published on the web. Drawbacks thus found have been addressed and their possible solutions have been given. For the purpose of the research paper, the author has employed the bluebook 20th edition citation style.

IV. **INSANITY**

The Black Law Dictionary defines insanity as a "mental illness and capacity of a person to a degree that the law will recognize the person to

be insane"²³¹⁵. This conception of insanity is different from the medical conception which defines it as a mental abnormality occurred due to various factors existing in varying degrees. Medical insanity can drive a person to the uncontrollable or sudden impulse to kill or injure a man or himself. The law perspective differs slightly from this perspective, as refers to it as a disease of the mind that makes an individual incapable of understanding the nature and consequence of the act committed. The mind of an individual cannot distinguish between fantasy and reality thus making him a subject of uncontrollable impulsive behavior. A clear distinction has been made between insanity and low intelligence or any other mental deficiency.

The Indian courts have time and time again, tried to make the distinction clearer numerous times. In the landmark judgment of Surendra Mishra versus State of Jharkhand²³¹⁶, the accused was suffering from medical insanity since before the crime. The Apex court propounded that although a person can be suffering from medical insanity or any other mental disorder, this cannot render a person legally insane in the eyes of the court. The term 'unsoundness of mind', used in section 84 of the IPC oftentimes is treated as a synonym of insanity but carries different meanings in various contexts. The mere fact that the accused is medically insane, has a weak intellect, or even suffers from fits of insanity is not enough to escape the liability upon him. There needs to be a clear sign through which the court can infer that the accused was not in the right state of mind at the time of the incident, which was missing here thus the court acquitted the accused even though he was suffering from a medical ailment before.

In another identical case, Jai Lal v. Delhi Administration²³¹⁷, the accused had medical insanity before the crime which was also proved

²³¹⁵ BRIAN A. GARNER, BLACK'S LAW DICTIONARY (St. Paul, MN :Thompson Reuters, 2014)

²³¹⁶ Surendra Mishra v. State of Jharkhand, (2011) 11 SCC 495.

²³¹⁷ Jai Lal v. Delhi Administration, AIR 1969 SC.

in the court. The court taking reference from the Surendra Mishra case denied a defense under section 84 of IPC. The court finally convicted the accused based on his conduct during the crime. It was held that although the accused suffered from medical insanity, his acts displayed a guilty conscious.

A. HISTORICAL EVOLUTION OF INSANITY AS A DEFENCE

Insanity as a defense has been incorporated into law for a long time. There has been some reference to it even in the ancient Greek and Roman laws. The first original report of it came in the year 1581 in the 'English legal treatise' which held that if a 'lunatic' commits murder and is insane at the time of the crime then he cannot be held liable. Therefore it was very well established at this point in time, that lack of a guilty mind equaled a lack of criminal liability.

The first breakthrough occurred in the year 1812 when the *Rex versus Arnold*²³¹⁸ was decided by the English court. It was the first recorded case where an acquittal by reason of insanity was decided by the 'wild beast test'. According to the landmark judgment which later formed a plinth for the defense of insanity to be further developed, the accused needs to show total deprivation of his/her understanding of the world and their memory. The act thus committed should not be understood by the accused just like in the case of a child or a brute.

Concurrently with the usage of the 'Wild Beast Test', two more of these tests existed as means to deal with the challenging scenario. They were the 'Insane Delusion Test' propounded through the *Hadfield case*²³¹⁹ and the 'Good and Evil Test' put forward through the *Bowler's case*²³²⁰.

All the precedents mentioned above helped from Mc'Naghten's rule which was propounded through the *queen versus M'Naghten*²³²¹. Here the accused Mc'Naghten was set free after

shooting and killing the secretary, of the then Prime Minister. M'Naghten stated that he mistook the secretary for the Prime Minister, and at the time of the crime wasn't in the right state of mind. His acquittal left the public in an uproar which eventually led the court to devise the M'Naghten rule.

The summary of the discussion between the jury and so propounded is given below:

- Every person is presumed to be sane by the law. He/she has a sufficient degree of reason and responsibility for the crime committed until the antithetical has been proved in front of the court.
- For an accused to take the defense of insanity, it must be clearly shown by him/he that at the time of the crime the accused was suffering from a mental disease which made it impossible for the accused to make a clear distinction between right and wrong.
- If the accused did know about the liability of the act that he is committing and continues to do that, then the accused is punishable by law.
- A person in the medical profession, who is unknown to the accused will be asked his opinion based on the pieces of evidence gathered. Based on this he is asked if the accused was insane or not at the time of committing the crime.
- When a criminal act is done under some delusion as to surrounding facts, which conceals from the accused the true nature of the act thus committed, he will be under the same degree of responsibility as he would have been on the facts as he imagined them.

1. The M'Naghten rule and Section 84 of the Indian Penal Code

The Indian Penal Code of 1860 was drafted to cover all the substantive aspects of criminal law prevalent at the time. The first law commission of British India was established in the year 1834 under the Charter act of 1833 under the chairmanship of Lord Thomas Babington Macaulay. Thus the Indian Penal code came

²³¹⁸ *Rex v. Arnold*, (1724) 16 St. Tr. 695.

²³¹⁹ *R v. Hadfield*, (1800) 27 ST. Tr. 1281.

²³²⁰ *Bowler's case*. 1812, 1 Collinson Lunacy 673.

²³²¹ *R v. M'Naghten*, (1843) 8 Eng. Rep. 718, 722.

into effect from the recommendations made by the committee.

The committee commissioned suggested two section, section 66 and section 67. Section 66 suggesting 'nothing is an offence which is done by a person in a state of idiocy' whereas section 67 suggesting 'nothing is an offence which a person does in consequence of being mad or delirious at the time of doing it'. The commissioners of law incorporated these two sections into section 84 altogether. And instead of using the term 'insanity' the commissioner used the term 'unsoundness of mind'. This allowed the section to be much more comprehensible. This allowed the law to do away with defining the term 'insanity' which could later be within the scope of different conditions of mind that originally weren't meant to be included under the section. To prove insanity through M'Naghten principal the accused has two limbs to prove. The first is to prove that he was 'mentally unsound' at the time of committing the crime. The second limb is that because of this mental unsoundness the person was rendered unable to know the true nature of the crime he is committing or the act committed by him was unknown to him to be legally wrong.

Over a period of time, this proved to be much more beneficial as it prevented the accused from finding loopholes in the law. Not mentioning insanity also unbale the law to do away with deciding the on its own grounds which otherwise wouldn't be possible as it could be well within the scope of medicine. It abled the law to differentiate between insanity affecting the cognitive abilities of a person and it affects the emotions of a person. The law in question only takes into account only the first instance.

B. ANALYSIS OF THE LAW COMMISSION REPORT

The legal framework had come under a lot of scrutiny time and time again due to various reasons which will be further discussed in the paper. Even after this, when the verdict of the

law commission came stating that the judicial system in regards to insanity does not need any alteration and is properly apt for the India Scenario. This has caused a lot of heated debate in the legal scenario as the M'Naghten rule on which the whole Indian framework is based on, has been criticized as well as changed in many modern countries. New theories and tests have been developed to determine the insanity of a person which are implied in these countries. In India no such new introduction is followed and we still follow the M'Naghten rule loosely. Many legal experts across the world believe that the M'Naghten rule has become obsolete with the passage of time and isn't suitable anymore.

The rule propounded in the year 1843 is still being followed by the legal machineries in India even today. There's a lot of change nowadays with many accused finding this as a loophole in the Indian framework and many accused being prosecuted against because the law is too vague to be interpreted. This is where the section 84 fails the judicial framework and therefore the law commission needs to rethink the decision of upholding the old and obsolete law.

V. CONCLUSION/SUGGESTIONS

Although the statute law of the section 84 of the IPC on insanity defence has not altered much for the past 150 years, our court language continues to be influenced by antiquated theories and beliefs. Indian jurisprudence has not yet established a convincing strategy, much less debated, regarding what "unsoundness" implies since it is based on the nebulous concept of "unsoundness of mind." Applying legal rules based on notions from pertinent, though not exclusive, sciences like psychiatry and psychology has proven challenging for courts. For example, cognition and cognitive abilities are known to be impacted by mental health issues for however brief a period of time, but a crucial discussion regarding how those abilities translate into questions of capacity, which is a legal determination, is absent from

Indian jurisprudence on the insanity defence. Therefore the first suggestion made is that there should be more legal interpretation of the word 'unsoundness of mind' by the law to avoid any controversies or confusion which had arisen between actual mental disease and the legal meaning of it.

The definition and criteria for "legal insanity" are likewise unclear. In terms of the level of incapacity that must be demonstrated as well as the method for assessing, inferring, or presuming incapacity within the paradigm of the totality of the circumstances, the law is inconsistent. The law surrounding the insanity defence has imported notions and norms that lack any clear meaning or a systematic approach, creating a framework that is backwards and unable to be upheld as a legal requirement. It could be beneficial to review how Section 84 is written in order to make it more sound and applicable. Indian legal doctrine is silent on the insanity defence.

The guidelines established in the M'Naghten case serve as the foundation for Indian law on insanity. The M'Naghten regulations, however, are no longer valid and appropriate in the contemporary world. Since insanity affects a person's complete personality, including their will and emotions as well as their cognitive faculties, the M'Naghten rule is founded on an outdated and inaccurate understanding of what insanity is. The current definition solely considers the defendant's acts from a cognitive and moral standpoint and overlooks any irrational impulses that may have driven him to do that particular act. As a result of the mental illness, an insane person may frequently be aware of the type and quality of his conduct as well as the fact that it is illegal yet nonetheless carry it out. The Law Commission of India, in its 42nd report, considered whether it was appropriate to establish the reduced responsibility test under IPC section 84, but decided against it. It is argued that the Law Commission's perspective has to be changed since it is out of step with the most recent

scientific and technical advancements achieved in this area.

The provision under section 84 is viewed as being too limited and does not cover a scenario in which one's emotion and will are sufficiently influenced to render the control of the cognitive abilities useless. The notion of decreased responsibility must also be introduced by the Courts, along with a broader definition of insanity. The Indian government may also examine the laws governing insanity in other nations to take as a reference.

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