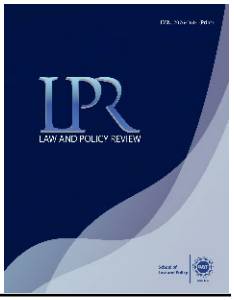
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Insanity Defense in Criminal Law in India: A Critical Analysis

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Abstract

Criminal law in India does not hold persons suffering from legal insanity as guilty of the crimes committed by them. The state of India adopted the concept of legal insanity and incorporated it in section 84 of the Indian Penal Code (IPC). An accused cannot be held liable for his offense if such an accused, at the time of the commission of an offense, was incapable of understanding the nature of the act and/or the concept of right and wrong. However, not every person who has a mental disorder would, ipso facto, be absolved of criminal liability. Instead, one must prove his legal insanity by the standard of evidence of the preponderance of probabilities. The burden of proof of insanity in an insanity plea is on the accused. Moreover, not every kind of medical insanity can be considered as legal insanity. There are certain criteria of legal insanity which an accused must meet to avail the defense of insanity. The scope of insanity defense under section 84 of IPC is limited only to the mental state of the accused at the time of the commission of an offense. Whereas, the mental state of the accused at the time of the trial and during incarceration is out of the scope of section 84 of the IPC, 1860. The opinion of the medical board in determining the legal insanity of the accused is sine qua non. This paper analyzes the law on insanity defense in India by adopting the doctrinal legal analysis approach. The findings have implications for lawyers, judges, jurists, psychiatrists, psychologists, and other stakeholders.

***Keywords*:** crime, defense, expert, Indian law, insanity

Introduction

The defense of insanity is a defense against the criminal responsibility of a person. This defense is incorporated in jurisdictions across the world. Criminal law in India does not hold a person suffering from legal insanity guilty of the crimes committed by him. The statutory law in India prohibits the fixing of criminal liability on a person of an unsound mind. The state of India, like many other countries, recognizes the concept of legal insanity

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and incorporated the criteria of the defense of insanity in section 84 of the Indian Penal Code (Gaur, 2009). Accordingly, a person cannot be held liable for his offense if such a person, at the time of the commission of a crime, was incapable of understanding the nature of the act and/or the concept of right and wrong (India Code, 1860). However, the scope of section 84 is limited only to the mental state of an accused at the time of the commission of an offense. The mental state of an under-trial person and/or a prisoner cannot be dealt with under this section. Moreover, the mental state of a person in civil matters cannot be dealt with at par with this section (Ajmal et al., 2023).

Legal Insanity in Indian Law

Section 2(1) (s) of the Indian Mental Healthcare Act, 2017 (India Code, 2017) defines mental disorder as an illness which significantly and adversely affects various fundamental human functions. Section 84 of IPC lays down the criteria of legal insanity. However, this section does not define insanity, unsoundness of mind, or mental disorder. Courts in India take the assertion of the unsoundness of mind in section 84 of IPC as insanity. Moreover, the term insanity has no exact definition and criterion. Thus, it carries different meanings in different contexts (Hari Singh Gond v. State of Madhya Pradesh, 2008).

Section 84 of the Indian Penal Code (IPC)

Section 84 of the IPC states the statutory criteria of legal insanity. According to this section, a person shall not be held responsible for the crime committed by him if he has a mental condition or a mental disorder to such an extent that he is incapable of controlling his action and to judge if it is prohibited by the law. Section 84 considers the mental condition or mental disorder of an accused relevant at the time of the happening of a crime (India Code, 1860).

Methodology

The doctrinal legal analysis was carried out to study the defense of insanity in criminal law in India. The statutory law on insanity defense developed and interpreted by the superior courts in India was described and analyzed.

Analysis

Scope of Section 84 of the IPC

Section 84 of IPC has a limited scope, as per the interpretation of the courts in India. Accordingly, not every person who has a mental disorder is, ipso facto, absolved of criminal liability. Any person who wants to plead under this section must prove by the preponderance of probabilities standard of evidence that at the time of the occurrence of the crime, he was suffering from such a mental condition or mental disorder that he was unable to know the act committed by him (Surendra Mishra v. State of Jharkhand, 2011). Section 84 limits the scope of the defense of insanity to the mental condition of the accused at the time of the crime. The mental condition of the accused, before or after the occurrence of the crime, is only relevant to the ascertainment of the mental disorder the accused suffers with. The determination of legal insanity in the context of a charge against an accused in the court of law is primarily based on the mental condition of the accused at the time of occurrence of the crime (Hari Singh Gond v. State of Madhya Pradesh, 2008).

Pre-requisites for Invoking Section 84 of the IPC

Suffering from any kind of mental disorder is insufficient for fulfilling the criteria of the defense of insanity specified in Indian criminal law. Furthermore, not every person who has some mental condition can be taken as legally insane. There are some binding pre-requisites to invoke the section 84. These include (1) the accused at the time of the occurrence of the crime must be suffering from a mental disorder or mental condition (2) which makes him/her unable to appreciate what he/she is doing and/or (3) what he/she is doing is against the law (Bapu Gajraj Singh v. State of Rajasthan, 2007).

Proof, Burden, and Standard of Proof for the Plea of Insanity in Criminal Law in India

Not every accused who has any kind of mental illness is, ipso facto, absolved of his/her criminal liability. A person who wants to plead under section 84 must prove that, at the time of the crime, he/she had a mental condition or mental disorder to such an extent which made his/her rational faculty devoid of understanding (Santosh Maruti Mane v. State of Maharashtra, 2019).

In the case of an insanity defense taken under section 84, the burden of proof is on the accused or otherwise, such a plea shall be decided based on the relevant material. The burden of proving legal insanity lies with the accused as he must prove that at the time of the offense, he was suffering with a mental disorder. The burden of proving legal insanity falls in the exceptions provided in section 105 of the Indian Evidence Act, 1872 (India Code, 2020). However, the prosecution must prove the charges framed against the accused beyond the reasonable shadow of doubt. Moreover, the prosecution would not be absolved of this duty even in case of an unsuccessful insanity plea taken by the accused (Elavarasan v. State of RbIoP, 2011).

The standard of evidence to prove legal insanity is the preponderance of probabilities, rather than the standard of beyond the shadow of reasonable doubt (State of Rajasthan v. Shera Ram, 2012). The accused must prove with the standard of evidence of the balance of probabilities that at the time of the crime, he had a mental condition or mental disorder to such an extent which made him unable to comprehend and appreciate what he/she was doing (Sudhakaran v. State of Kerala, 2010).

Criteria for Insanity Defense and Ascertainment by the Courts

Every person is rational and sane unless proven otherwise (Bapu Gajraj Singh v. State of Rajasthan, 2007). The state of India adopted the criteria of legal insanity settled in McNaughton rules which consider a person insane if at the time of committing an offense, he/she does not comprehend and appreciate what he is doing and/or if it is against the law (Anayat Ullah v. The State, 2011). However, the criteria of the defense of insanity and legal insanity have been refined by different interpretations made by the superior courts in India to come to its modern form.

The court must examine the circumstances in their entirety before, during, and after the crime to ascertain the legal insanity of the accused (Ratan Lal v. State of Madhya Pradesh, 1970). Based on the criteria specified in section 84 and keeping in view the mental health evaluation report of the accused, the court must consider all relevant material to make a holistic view to ascertain the defense of insanity taken by the accused (Bapu Gajraj Singh v. State of Rajasthan, 2007).

Absence of Motive is Not Conclusive in the Insanity Plea

The absence of a motive behind the crime may be a relevant factor when assessing the mental condition of an accused, although it cannot be conclusive. The absence of motive cannot be considered as a criterion for insanity, rather it can be taken as a guiding factor. However, this factor must be examined along with other essential elements to decide the defense of insanity taken by an accused. Moreover, each insanity plea must be decided on its own merits (Hari Singh Gond v. State of Madhya Pradesh, 2008).

Legal Insanity and Medical Insanity in Indian Law

Suffering from any particular kind of mental disorder or mental condition cannot be considered as legal insanity. Medical insanity and legal insanity are different concepts in substance and purpose. The term 'insanity' is no longer used in the mental health literature. The criteria of mental disorders in medical terms are different and are usually focused on the medical purposes of diagnosis and treatment. However, in determining legal insanity, the purpose is solely legal. Legal insanity is based on the purpose and criteria set by the relevant law which primarily focuses on the capacity of an accused to make rational judgements about his actions. Furthermore, not every kind of mental disorder can be considered as causing legal insanity (Hari Singh Gond v. State of Madhya Pradesh, 2008).

Expert Testimony and Insanity Defense in Indian Law

Section 45 to section 51 of the Indian Evidence Act, 1872 (India Code, 2020) deals with expert testimony. According to section 45 of the Indian Evidence Act, 1872, an expert is a person who possesses specialized knowledge accumulated either through practice, observation, and/or relevant study. This statutory provision in Indian law confines the testimony of an expert to five fields, namely science, foreign law, art, handwriting, and fingerprint. However, the courts have broadened the scope of expert testimony to other fields through the interpretation of these statutory provisions (India Code, 2020).

Mental health professionals, mainly psychiatrists and psychologists, as expert witnesses may testify regarding the mental health of an accused. The role of such an expert is to serve the court to comprehend the evidence and/or to decide the fact-in-issue. An expert witness, in this regard, must be an expert with a deeper understanding and technical knowledge of the relevant subject matter, who can assist the court to reach an independent

conclusion (Paneerselvam v. The State, 2017; Sagar Dwarkanath Patil v. State of Maharashtra, 2018).

In India, expert testimony is taken as corroborated evidence, rather than conclusive evidence (Arshad v. State of A.P., 1995). Moreover, according to the law in India, the courts must not come to their verdicts solely based on expert testimony without seeking independent and reliable corroboration from other kinds of admissible evidence (S.Gopal Reddy v. State of A.P., 1996). The testimony of a witness is preferred over an expert's testimony, since the testimony of a witness constitutes direct evidence, while the testimony of an expert is based on his opinion (Mani Ram v. State of U.P., 1994). However, in case of contradiction between two or more experts, the testimony of an expert which is corroborated by direct evidence is preferred over the testimony of other expert witnesses (Piara Singh v. State of Punjab, 1977).

Expert opinion is important in deciding about the mental state and condition of an accused. However, the court is not bound to order a medical examination each time the insanity plea is taken by an accused (Surendra Mishra v. State of Jharkhand, 2011). Moreover, an expert cannot decide the ultimate question that an accused possessed the requisite mens rea and/or the accused was unable to distinguish right from wrong. It is up to the court to determine these questions (Ratan Lal v. State of Madhya Pradesh, 1970). Medical evaluation in case of a plea of insanity is mandatory. The board must not give its opinion on whether the accused meets the criteria of legal insanity; rather, the board must write a comprehensive report regarding the mental health of the accused. Moreover, there is no standard practice of forensic mental health evaluation in India (Kumar et al., 2014).

Duties of Medical Board for Insanity Evaluation

Certain instructions are given to medical boards for the mental health evaluation of an accused by the courts in India. These instructions, given in the form of case law, are binding on the medical boards evaluating the mental health of an accused. The medical board for insanity evaluation must educate the court and give its objective view (Dahyabhai Chhaganbhai Thakker v. State of Gujarat, 1964). It must review all the relevant documents, including legal documents, during forensic mental health evaluation (Hari Singh Gond v. State of Madhya Pradesh, 2008). The accused must be interviewed at the earliest during forensic evaluation by

the medical board (Sudhakaran v. State of Kerala, 2010). The board must give a detailed historical account of the illness of the accused (Kumar et al., 2014). A comprehensive account of the accused's cognitions, emotions, and behavior, before, during, and after committing the alleged crime, must be included in the forensic evaluation report. The board must evaluate the accused in detail and the detailed diagnosis must also be included in the report. Moreover, the board must not limit itself to examining the cognitive faculties of the accused only (T.N. Lakshmaiah v. State of Karnataka, 2002).

Significant Points on Insanity Defense as Decided by Indian Courts

The courts in India recognize the defense of insanity as an excuse defense against the criminal liability of an offender (Muhammad Yaqoob v. The State, 1984; Shrikant Anandrao Bhosale v. State of Maharashtra, 2002). An accused must meet the criteria of legal insanity to reap the benefits of the defense of insanity. However, minor problems in the mental health of an accused cannot let him/her secure the benefits of the insanity defense (Laxmikant S/O. Nagorao Kulkarni v. State of Maharashtra, 2018; The State v. Balahari Das Sutrandhar, 1962). Insanity defense cannot be taken based on mere behavioral oddities and eccentricities of the accused (Surendra Mishra v. State of Jharkhand, 2011).

The onus of proof in the case of insanity defense, like all other exceptions, is on the accused (Siddhapal Kamala Yadav v. State of Maharashtra, 2009). Everyone is presumed to be sane unless proven otherwise (Bapu Gajraj Singh v. State of Rajasthan, 2007). The absence of motive for an offense cannot be equated with the presumption of insanity. Moreover, the mental health of the accused at the time of the occurrence of the crime is relevant in the case of the insanity defense (Sheralli Wali Mohammad v. State of Maharashtra, 1972).

The defense of insanity cannot be claimed in case of a crime committed because of superstitious beliefs (Mt. Sukni Chamain v. Emperor, 1936). Furthermore, acting on sudden provocation and impulse is not sufficient ground to avail the defense of insanity (Ramedin v. State of MP, 1996). A person who is substantially devoid of understanding of the usual things cannot be assumed to commit a crime and thus shall get the benefit of an insanity defense. The test of insanity is that the accused must be ill to such

a severity that makes him incapable of comprehending the nature of his conduct (‘X' v. State of Maharashtra, 2019).

Medical insanity is distinct from legal insanity (Ajmal & Rasool, 2023; Hari Singh Gond v. State of Madhya Pradesh, 2008). The execution of mentally ill prisoners is banned in India. However, there remains a shocking number of prisoners suffering from mental disorders in prisons in India (Math et al., 2011). In the case of Shatrughan Chauhan and another v. Union of India and others (2014), the Supreme Court of India held that executing a person with a mental disability is unconstitutional and is prohibited by law. Article 21 of the Constitution of India protects a person with a mental disorder from execution (Shatrughan Chauhan and another v. Union of India and others, 2014).

Conclusion

The law in India does not hold a person suffering from mental disorder(s) guilty for the crimes committed by him. However, just suffering from a mental condition does not absolve a person from criminal responsibility; rather, there are certain criteria to avail the defense of insanity. Section 84 of IPC is the exclusive statutory provision on the defense of insanity. Moreover, to determine the legal insanity of an accused, the opinion of the medical board after the mental health evaluation of the accused is sine qua non. There is a need to adopt multidisciplinary approaches to deal with the intricacies of insanity defense in India.

Recommendations

Forensic Training of Psychiatrists and Psychologists

Forensic psychiatry and forensic psychology are developing fields in India. Psychiatrists and psychologists in India lack training in the fields of forensics and law. Moreover, there is also a lack of proper infrastructure in these areas (Ajmal et al., 2022; Nambi et al., 2016). The fields of forensic psychiatry and forensic psychology must be developed in the country by introducing mandatory specialized courses. Moreover, extensive courses on law must be mandatory in the training of forensic psychiatrists and psychologists. The capacity-building of relevant stakeholders is crucial in this regard (Ajmal & Rasool, 2022).

Legislative Reforms and Amendments to Existing Laws

The legislative reforms are recommended to tackle the problems faced by forensic psychiatrists and psychologists in India to enhance the quality of forensic services provided by them. There is a need to amend section 84 of IPC considering the modern developments in the field of law and forensic mental health. In section 84, the expression of 'unsoundness of mind' must be amended and replaced with the expression of 'mental disorder', as the expression unsoundness of mind is a stigmatized, outdated, and abandoned term (Ajmal et al., 2022). The terms like lunatic, idiot, and insane used in the Indian Code of Criminal Procedure,1973, and Indian Penal Code, 1860, must be replaced with appropriate terms. Moreover, there must be legislation regarding the minimum criterion of forensic training for mental health professionals to perform forensic evaluations.

Capacity Building of Relevant Stakeholders

There is a wide gap among the capacities of relevant stakeholders in India. The judges, lawyers, police officers, and prison personnel must be thoroughly trained in forensic-related matters in India. It is pertinent to build the capacities of these stakeholders to minimize their prejudices and stereotypes about forensic mental health and particularly, about the defense of insanity.

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