
RECONCEPTUALISING CRIMINAL RESPONSIBILITY: THE EVOLUTION OF THE INSANITY DEFENCE FROM MORAL PHILOSOPHY TO CONSTITUTIONAL JURISPRUDENCE IN INDIA

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ABSTRACT

The concept of mental integrity has progressively evolved beyond its traditional medical dimensions to emerge as a significant constitutional and human rights concern, intrinsically linked to the principles of dignity, autonomy, and personal liberty. This article examines the development of mental health jurisprudence and the insanity defence within criminal law, with particular emphasis on the Indian legal framework, situating the discourse at the intersection of psychiatry, criminal justice, and constitutional law. The study explores the moral and philosophical foundations of criminal responsibility, premised on the notion that the legitimacy of punishment depends upon an individual's capacity for rational understanding and volitional control. Where an accused lacks the cognitive ability to comprehend the nature, consequences, or wrongfulness of an act, the imposition of criminal liability fails to fulfil the normative objectives of punishment. In this context, the insanity defence functions as a principled exception to the requirement of concurrence between *actus reus* and *mens rea*.

Adopting a historical and doctrinal approach, the paper contrasts the moral absolutism reflected in ancient Indian conceptions of *Dharma* with the gradual recognition of mental incapacity as a ground for exculpation within Western legal traditions. These developments ultimately culminated in the formulation of the M'Naghten Rules, which established a predominantly cognitive test of legal insanity and continue to shape Indian criminal jurisprudence through Section 84 of the Indian Penal Code, 1860. The article further analyses the constitutional evolution of mental health under Article 21 of the Constitution of India, highlighting judicial recognition of mental well-being, autonomy, and human dignity as essential components of the right to life and personal liberty. It argues that contemporary constitutional values necessitate a more humane, rights-oriented, and scientifically informed approach to criminal responsibility and the treatment of persons with mental disorders within the criminal justice system.

Keywords: Mental Integrity, Insanity Defence, Criminal Responsibility, Unsoundness of Mind, Mental Health, Article 21, Constitutional Jurisprudence, Human Dignity.

Introduction

Mental integrity refers to the legal protection of an individual's psychological condition and capacity for autonomous decision-making against unwarranted or non-consensual interference. Contemporary legal discourse increasingly recognizes mental integrity as extending beyond the traditional medical understanding of mental health, evolving into a constitutional and human rights concern grounded in the principles of human dignity, autonomy¹, and personal liberty. In this context, mental health law serves a critical function in strengthening psychiatric care systems by establishing a normative framework that promotes accountability, accessibility, and the effective protection of fundamental rights.

From a jurisprudential perspective, the recognition of mental health as a legal entitlement is closely associated with constitutional guarantees of dignity, equality, and individual freedom. This recognition assumes particular significance within the Indian criminal justice system, where questions of mental illness frequently intersect with issues of criminal responsibility, culpability, and the availability of legal defences. The relationship between mental disorder and criminal liability raises complex legal and ethical concerns regarding the extent to which an individual's cognitive and volitional capacities should influence assessments of guilt and punishment.

At the international level, mental health governance has increasingly been informed by human rights-based approaches. Standards articulated by the World Health Organization and other international instruments emphasize that mental health legislation must ensure the protection of core rights, including informed consent, privacy, confidentiality, autonomy, and freedom from cruel, inhuman, or degrading treatment. These developments reflect a broader shift towards viewing mental health not merely as a matter of clinical intervention but as an essential component of human dignity and substantive justice. Accordingly, the evolution of mental health law necessitates a legal framework that balances societal interests in public safety with

¹ Renjini, R., Janaki, M. C., & Kumar, G. A Prisoners as the Forgotten Patients: A Rights-Based Argument for Psychotherapy in Indian Prisons. *Annales Internationales de Criminologie*, 1–15. (2025). <https://doi.org/10.1017/cri.2025.10067>.

the protection of the rights and freedoms of individuals experiencing mental illness.

Early Moral Foundations of Criminal Responsibility

The earliest jurisprudential foundations of criminal responsibility were deeply rooted in moral conceptions of punishment and culpability. Within classical legal theory, the principle of retribution justified punishment as a deserved response to the voluntary violation of legal norms. Although often associated with notions of retaliation, modern jurisprudence distinguishes retribution from mere vengeance by emphasizing proportionality and moral accountability. In contrast, the principle of justice recognizes the State's limited authority to impose coercive measures only insofar as they are necessary to protect societal interests and uphold the common good. Under this framework, responses to unlawful conduct may include treatment, isolation, rehabilitation, or incarceration, depending upon considerations of fairness, public welfare, and the offender's individual circumstances². While retaliatory conceptions of punishment have exerted considerable historical influence, contemporary legal thought increasingly favours justice-oriented approaches grounded in rationality, proportionality, and community-based ethical judgment. Such approaches are closely aligned with the doctrine of *mens rea* and broader principles of moral responsibility.

The philosophical objectives of punishment presuppose the existence of rational understanding and autonomous decision-making. An individual who lacks the mental capacity to comprehend legal obligations, appreciate the consequences of conduct, or regulate behaviour in accordance with social norms cannot meaningfully be subjected to punishment in a manner that advances the underlying goals of penology. Criminal liability has therefore traditionally been premised upon the assumption that individuals possess the capacity for free and rational choice. Where this capacity is substantially impaired by mental disorder, and the individual is unable to conform conduct to legally prescribed standards, the insanity defence operates as a long-established exception to the fundamental requirement that criminal responsibility be based upon the concurrence of *actus reus* and *mens rea*.

Historically, the doctrine of criminal responsibility developed around the principle that only voluntary acts accompanied by a culpable mental state could constitute a criminal offence. The concept of *mens rea* refers to the cognitive element of criminal liability, encompassing states

² Douglas Walton, *Philosophical Perspectives on the Insanity Defense*, *The Human Context*, 7, 1975, at p. 551-552.

of mind such as intention, knowledge, recklessness, and foresight. The doctrine of insanity, by contrast, concerns circumstances in which a mental disorder may negate criminal responsibility despite the apparent existence of a guilty intention. Contemporary psychological research demonstrates that cognition, emotion, and volition function as interconnected aspects of human behaviour. Consequently, mental illness may impair reasoning processes, judgment, or impulse control without necessarily eliminating intentional conduct altogether. This distinction has led courts to differentiate between the absence of *mens rea* and the presence of legal insanity, although evidence relating to mental disorder may be relevant to both inquiries³.

Furthermore, certain conditions including automatism, severe delirium, and profound intellectual disability may genuinely undermine or negate the cognitive elements required for criminal liability. Such circumstances challenge the conventional assumption that culpability necessarily follows from the existence of intent and underscore the importance of a nuanced understanding of the relationship between mental disorder and criminal responsibility⁴.

Ancient Indian Perspective

Unlike modern criminal law, which recognizes mental incapacity as a potential ground for exemption from criminal liability, ancient Indian legal philosophy generally did not acknowledge insanity as an independent legal defence. Classical normative frameworks were predominantly shaped by the concepts of *Karma*, *Dharma*, and *Danda* (punishment), which emphasized moral accountability and the maintenance of social order. Within this paradigm, individuals were expected to bear the consequences of their actions irrespective of questions relating to mental capacity, intention, or cognitive impairment. Foundational texts such as the *Manusmriti* and the *Arthashastra* were primarily concerned with preserving moral and social order rather than assessing criminal responsibility through the lens of psychological incapacity. In this regard, Justice B. N. Srikrishna has observed that *Dharma* functioned as an indigenous conception of the rule of law, predating comparable developments in Western legal thought⁵.

Notwithstanding the absence of a formal insanity defence, ancient Indian intellectual traditions exhibited a sophisticated understanding of mental well-being. Within the Ayurvedic and

³ Stephen J. Morse & Morris B. Hoffman, The Uneasy Entente Between Legal Insanity and Mens Rea: Beyond Clark v Arizona, 97 J. CRIM. L. & CRIMINOLOGY 1071 (2007).

⁴ Atkins v Virginia, 536 U.S. 304, 318.

⁵ Justice B. N. Srikrishna's lecture on the rule of law being rooted in Dharma and predating Western legal conceptions (as reported). (2006, March 6). Hindustan Times.

philosophical traditions, mental health was regarded as an essential component of holistic human flourishing. Patanjali, in particular, emphasized yoga as a comprehensive path to self-realisation achieved through the harmonious integration of physical health, mental equilibrium, and spiritual discipline. These ideas reflected a broader civilizational commitment to the cultivation of psychological balance and inner well-being.

India's engagement with mental health therefore predates the emergence of modern legal and psychiatric institutions⁶. Ancient texts, including the *Vedas*, *Upanishads*, and classical Ayurvedic treatises, acknowledged the interrelationship between mind, body, and spirit and regarded mental harmony as indispensable to overall health. These traditions reveal an early conceptual appreciation of psychological functioning and emotional well-being, even though they did not translate into a distinct legal doctrine of diminished responsibility or criminal incapacity. At the societal level, however, responses to mental illness were often influenced by stigma, religious beliefs, and supernatural explanations, which occasionally resulted in exclusionary or harmful practices.

Contemporary scholarship on ancient Indian psychiatry and Ayurveda demonstrates that early Indian thought possessed a nuanced understanding of mental disorders and psychological disturbances. Although these insights were articulated within religious and philosophical frameworks rather than modern scientific paradigms, they constitute an important historical foundation for contemporary discussions on mental health law and forensic psychiatry. In particular, they contribute to a deeper understanding of the evolution of legal responses to mental illness and provide valuable context for modern criminal law doctrines relating to the defence of unsoundness of mind⁷.

Evolution of the Insanity Defence under the Anglo-Saxon Legal Tradition

The intellectual foundations of the insanity defence within the Anglo-Saxon legal tradition can be traced to classical Greek philosophy, where questions of moral agency, rationality, and

⁶ C.R.Chandrashekar & S.B. Math, Psychosomatic Disorders in Developing Countries: Current Issues and Future Challenges. *Current Opinion in Psychiatry* 19:201–206 (2006); as cited by, Mr. Gaurav Bharti, Dr. Manisha Matolia, (2025) *Laws Concerning Mental Health in India: A National Perspective*. *Journal of Neonatal Surgery*, 14 (18s), at p. 408.

⁷ Ravi Abhyankar, "Psychiatric Thoughts in Ancient India" 5 *Journal of Yoga, Physical Therapy and Rehabilitation* 1-4 (2018).; also see, Parthasarathi Mondal, "Psychiatry in Ancient India: Towards an Alternative Standpoint" 14(3) *NIMHANS Journal* 167-199 (1996); and also see, Anand Mishra, Thomas Mathai and Daya Ram, "History of psychiatry: An Indian perspective" 27(1) *Industrial psychiatry Journal* 21-26 (2018).

responsibility were first systematically examined. Among the earliest thinkers to engage with these issues were Plato and Aristotle, whose writings significantly influenced subsequent legal and ethical conceptions of criminal responsibility.

In *The Laws*, Plato offered one of the earliest comprehensive discussions of the relationship between mental illness and legal accountability. He distinguished forms of madness arising from disease, senility, or other pathological conditions from misconduct rooted in moral corruption or defective character. According to Plato, individuals whose actions resulted from illness-induced insanity should not be subjected to corrective punishment because they lacked the rational capacity necessary for moral reform. Responsibility for their conduct was instead attributed to guardians or family members entrusted with their care⁸. Plato conceived punishment primarily as an instrument of moral improvement rather than retribution; however, he regarded the mentally ill as incapable of benefiting from such reformatory measures. Consequently, where an offence was committed under conditions of insanity, disease, or extreme old age, punishment could be excused, although restitution for the harm caused might still be required. In Plato's view, the absence of rational understanding undermined the moral basis of criminal liability⁹, thereby justifying exemption from punishment while preserving obligations of compensation.

Aristotle did not formulate a distinct legal doctrine of insanity, yet his ethical philosophy provided an important theoretical foundation for later developments. In the *Nicomachean Ethics*, Aristotle argued that actions performed in ignorance of their nature, circumstances, or consequences are involuntary and therefore deserving of compassion rather than blame. For Aristotle, both moral and legal responsibility presupposed the existence of rational capacity (*logos*), such that conduct could only be considered culpable when undertaken voluntarily and with understanding¹⁰. Individuals suffering from severe mental disturbances, including conditions analogous to mania or epilepsy, were viewed as deviations from normal human functioning because they lacked effective rational control over their actions. Aristotle frequently compared such individuals to children or animals, emphasizing that they fell outside the sphere of moral persuasion and ethical judgment. Since deliberate choice and rational deliberation constituted the foundation of virtue and vice, persons deprived of these faculties

⁸ Marke Ahonen, Ancient philosophers on mental illness, *History of Psychiatry* 2019, Vol. 30(1) 3–18 at PP. 5-6.

⁹ Michael J. Vitacco et. al., Neuroscience and the Insanity Defense: Trying to put a round peg in a square hole, *Forensic Science International: Mind and Law*, 5 (2024) 100131.

¹⁰ *Supra* note 8 at p. 6-7.

could not be evaluated according to ordinary standards of moral accountability. Although Aristotle did not explicitly address criminal liability, his theory implicitly suggests that individuals incapable of rational agency cannot be held fully responsible for their actions. This insight laid an important philosophical foundation for the modern insanity defence, which rests upon the absence of rational understanding and autonomous choice. Aristotle's broader conception of governance similarly emphasized that law itself must be governed by reason, thereby embedding principles of rational accountability within legal institutions. From this perspective, criminal responsibility exists only where conduct is accompanied by knowledge, voluntariness, and self-control; when mental illness destroys these capacities, the normative basis of criminal punishment is fundamentally weakened.

The earliest formal legal recognition of mental incapacity as a ground for exemption from responsibility emerged in Roman law, particularly under the Code of Justinian during the sixth century CE. Roman jurisprudence classified insane persons (*furiosi*) and children as lacking *voluntas* and *intellectus* the essential elements of legal responsibility. Such individuals were regarded as *non compos mentis* and were often equated with infants or animals because they were incapable of forming *culpa* (fault). Justinian's *Digest* explicitly identified both *furiosi* and minors as legally incapable of possessing the intent necessary for criminal liability¹¹. Roman law therefore proceeded on the assumption that punishment was justified only where conduct resulted from rational deliberation; where intellectual capacity was absent, punishment lacked legitimacy.

Roman legal sources repeatedly employed analogies between insane persons, infants, and animals, emphasizing the absence of rational judgment as the decisive basis for exemption. At the same time, Roman law developed a nuanced approach to mental incapacity. Rather than treating insanity as an absolute category, courts carefully examined whether an offence had been committed during genuine insanity, temporary derangement, permanent mental disorder, or merely feigned madness. Even individuals previously declared *furiosus* could be evaluated during lucid intervals to determine whether sufficient understanding existed at the time of the offence. Consequently, Roman law adopted a fact-specific and individualized approach, exempting criminal liability only where the act resulted from a genuine loss of consciousness

¹¹ Justinian. (1985). *The Digest of Justinian* (A. Watson, Trans.). University of Pennsylvania Press. (Original work compiled ca. AD 533), Digest 48.8 (on homicide), especially distinctions between *dolus* (intent) and *impetus* (sudden impulse) and also see Buckland, W. W. (1963). *A textbook of Roman law from Augustus to Justinian* (3rd ed.). Cambridge University Press

or rational control¹². Mental illness itself was viewed as a misfortune warranting compassion rather than punishment¹³.

Roman law also introduced early concepts of diminished culpability. A notable example was the doctrine of “heat of passion,” under which homicide committed during sudden anger or provocation attracted reduced punishment because the accused lacked the calm deliberation ordinarily associated with criminal intent¹⁴. This distinction between fully intentional conduct and conduct committed under conditions of impaired judgment laid the conceptual groundwork for later doctrines addressing partial responsibility and mental incapacity.

During the medieval period, legal attitudes toward insanity were profoundly influenced by Canon law and Christian theology. Thinkers such as St. Augustine and St. Thomas Aquinas conceptualized criminal responsibility through the interconnected concepts of free will, moral agency, and sin¹⁵. Within scholastic thought, both crime and sin presupposed the capacity to distinguish right from wrong and to act voluntarily¹⁶. Mental illness was therefore understood as a condition capable of negating moral blameworthiness because it impaired the rational faculties necessary for ethical choice. Although insanity did not eliminate concerns regarding public safety, it substantially reduced or extinguished moral guilt. Consequently, mentally ill individuals were frequently exempted from punishment while remaining subject to supervision, confinement, or guardianship to prevent harm to themselves and others¹⁷. This theological framework exerted a lasting influence upon medieval common law and helps explain why insanity historically functioned as a basis for mercy and exemption from punishment rather than as a complete defence resulting in unconditional freedom¹⁸.

Prior to the Norman Conquest, Anglo-Saxon England lacked a centralized criminal justice system. Legal responsibility was primarily compensatory in nature, and disputes were resolved

¹² Zuzanna Benincasa and Maria Nowak, *Outline Of The Legal Situation Of Persons With Mental Disabilities (Furiosi) In Roman Law*, Chapter-3, at p. 51-52; DOI: 10.4324/9781003463016-5.

¹³ See the example of Aelius Priscus case as quoted by Susana Gazmuri, *The Mentally Ill In Roman Society (Late Republic And Empire)*, Argos 30 (2006) ISSN 0325-4194, p. 97.

¹⁴ Susana Gazmuri, *The Mentally Ill In Roman Society (Late Republic And Empire)*, Argos 30 (2006) ISSN 0325-4194, p. 95

¹⁵ Augustine. (1993). *On free choice of the will* (T. Williams, Trans.). Hackett Publishing. (Original work written c. 388–395 CE), and also see Aquinas, T. (1988). *Summa theologica* (Fathers of the English Dominican Province, Trans.). Christian Classics. (Original work written 1265–1274).

¹⁶ Walker, N. (1968). *Crime and insanity in England* (Vol. 1). Edinburgh University Press, and also see Morse, S. J. (2000). *Brain and blame*. *Georgetown Law Journal*, 84, 527–560.

¹⁷ Baker, J. H. (2019). *An introduction to English legal history* (5th ed.). Oxford University Press.

¹⁸ Gratian. (1993). *The treatise on laws (Decretum DD. 1–20)* (A. Thompson & J. Gordley, Trans.). Catholic University of America Press. (Original work c. 1140).

through the payment of *wergild* (monetary compensation). Where harm was caused by an insane individual, responsibility generally fell upon the offender's family or kinship group, who were required both to compensate the victim and to supervise the offender. At this stage, insanity did not operate as a legal defence in the modern sense; rather, it reduced personal blameworthiness and shifted responsibility from the individual offender to the broader community¹⁹.

Following the Norman Conquest of 1066, criminal justice became increasingly centralized under royal authority. Although insanity was not formally recognized as a legal defence, individuals believed to be mentally disordered could be recommended for royal pardon after conviction²⁰. Thus, insanity functioned as an exceptional ground for mercy rather than a substantive legal doctrine. The accused remained legally guilty, but punishment could be mitigated through the exercise of the King's prerogative. This development reflected the broader transition from community-based justice to state-administered systems of punishment²¹.

A major doctrinal advance occurred in the writings of Henry de Bracton during the thirteenth century. Bracton articulated the principle that a person who lacked awareness of his actions because of insanity should not be held criminally responsible. He famously compared such individuals to "wild beasts," a formulation that later evolved into the Wild Beast Test. Under this test, criminal responsibility could be excluded only where the accused's mental capacity was equivalent to that of an infant or animal. Although highly restrictive, the test represented an important development because it introduced a cognitive standard focused upon understanding rather than solely upon moral fault.

Subsequently, English law developed the Good and Evil Test, which shifted attention from intellectual incapacity to moral cognition. Under this standard, an individual was considered insane if incapable of distinguishing between good and evil. Unlike the Wild Beast Test, which required near-total cognitive deprivation, the Good and Evil Test focused on the accused's

¹⁹ Pollock, F., & Maitland, F. W. (2010). *The history of English law before the time of Edward I* (Vol. 2). Cambridge University Press. (Original work published 1898) and also see Holdsworth, W. S. (2009). *A history of English law* (Vol. 2). Sweet & Maxwell. (Original work published 1903).

²⁰ Holdsworth, W. S. (2009). *A history of English law* (Vol. 3). Sweet & Maxwell. (Original work published 1909).

²¹ Green, T. A. (1985). *Verdict according to conscience: Perspectives on the English criminal trial jury, 1200–1800*. University of Chicago Press.

capacity for moral judgment²². The test proved particularly useful in cases where individuals retained some intellectual functioning but lacked the ability to appreciate the moral quality of their conduct.

The landmark decision in *R v Arnold* (1724) marked a significant stage in the evolution of insanity jurisprudence²³. Judge Tracy stated that insanity existed where the accused was “totally deprived of his understanding and memory” and did not know what he was doing any more than a wild beast. The decision provided formal judicial endorsement of the Wild Beast Test and established it as an influential standard within English criminal law²⁴.

The doctrine was further refined by Sir William Blackstone in his *Commentaries on the Laws of England*. Blackstone argued that idiots and lunatics could not be held criminally responsible because they lacked the understanding necessary for culpable conduct²⁵. He also emphasized the presumption of sanity, thereby placing the burden of proving insanity upon the accused. His writings created an important doctrinal bridge between medieval understandings of mental incapacity and modern insanity jurisprudence.

A transformative development occurred in *R v Hadfield* (1800), a case widely regarded as a turning point in the history of the insanity defence²⁶. James Hadfield attempted to assassinate King George III while acting under a delusional religious belief. Despite evidence of planning and premeditation, the court acquitted him on grounds of insanity, recognizing that delusion could coexist with purposeful conduct. The decision introduced the formulation “Not Guilty by Reason of Insanity” into legal discourse and directly prompted the enactment of the Criminal Lunatics Act 1800. This legislation required the detention of individuals acquitted by reason of insanity²⁷, reflecting a shift from mercy-based approaches toward preventive confinement in the interests of public safety. Following *Hadfield*, psychiatric evidence assumed increasing importance in determining criminal responsibility, and the legal response to mentally disordered offenders gradually shifted from punishment toward custodial treatment

²² Moran, R. (1985). The Origin Of Insanity As A Criminal Defense. *Law and History Review*, 3(2), 395–426. <https://doi.org/10.2307/743879>.

²³ *R v Arnold* (1724) 16 Howell’s State Trials 695 (Eng.).

²⁴ Walker, N. (1968). *Crime and Insanity in England* (Vol. 1). Edinburgh University Press and also see Ashworth, A. (2015). *Principles of criminal law* (7th ed.). Oxford University Press.

²⁵ Blackstone, W. (1765–1769/1979). *Commentaries on the Laws Of England* (Vol. 4, Ch. 2). University of Chicago Press.

²⁶ *R v Hadfield* (1800). 27 Howell’s State Trials 1281.

²⁷ Criminal Lunatics Act, 1800, 39 & 40 Geo. III c. 94 (UK).

and risk management²⁸.

The Criminal Lunatics Act 1800 marked a decisive transition in the law by formally recognizing insanity as a defence while simultaneously ensuring public protection through compulsory detention. Insane offenders were no longer simply pardoned or released; instead, they remained confined until deemed safe for reintegration into society²⁹.

Further developments occurred in *Bowler's Case*³⁰, where epilepsy was recognized as a potential basis for insanity. The court applied a right-and-wrong test that reinforced the cognitive foundation of the defence and encouraged greater reliance on medical evidence in assessing criminal responsibility.

The nineteenth and twentieth centuries witnessed the emergence of several competing legal tests for insanity. The most influential of these were the M'Naghten Rules of 1843³¹, which established a predominantly cognitive standard based on whether the accused understood the nature and quality of the act or knew that it was wrong. Although widely adopted, the Rules were criticized for neglecting volitional impairments and disorders affecting self-control.

In response to these limitations, the Irresistible Impulse Test developed as a supplementary doctrine recognizing situations in which an individual understood the wrongfulness of conduct but lacked the ability to control behaviour³². However, concerns regarding vagueness and potential misuse limited its acceptance. The Durham or Product Test³³ subsequently expanded the inquiry by asking whether the unlawful act was the product of mental disease or defect. Despite its innovative approach, the test was ultimately criticized for its conceptual ambiguity and dependence upon contested psychiatric definitions.

A more balanced framework emerged through the American Law Institute's Model Penal Code, which introduced the "substantial capacity" test. This approach combined cognitive and volitional elements by examining whether a mental disorder substantially impaired an

²⁸ Smith, R. (1981). Trial by Medicine: Insanity and Responsibility in Victorian trials. *British Journal of Criminology*, 21(1), p.18–30.

²⁹ Eigen, J. P. (1995). *Witnessing Insanity: Madness and mad-doctors in the English court*. Yale University Press and also see Fennell, P. (1996). *Treatment without Consent: Law, Psychiatry and the Treatment Of Mentally Disordered People Since 1845*. Routledge.

³⁰ R v Bowler (1882) 16 Cox C.C. 22.

³¹ M'Naghten's Case (1843) 10 Cl & Fin 200, 8 ER 718 (HL).

³² Report of Royal Commission on Capital Punishment (London HMSO 1953) pp. 109, 111,287.

³³ Durham v. U.S. 214 F 2d 862, 869 et req. (D.C. cir. 1954).

individual's capacity either to appreciate criminality or to conform conduct to legal requirements. Nevertheless, following public and legislative criticism, the federal position in the United States was significantly narrowed through the Insanity Defense Reform Act 1984, which largely restored a cognitive standard resembling the M'Naghten Rules.

In England, some of the rigidity associated with the insanity defence was mitigated through the doctrine of diminished responsibility under the Homicide Act 1957, which recognized reduced culpability arising from abnormality of mental functioning. Collectively, these developments culminated in the enduring influence of the M'Naghten Rules, which formally articulated the right-and-wrong test and continue to provide the foundational framework for insanity jurisprudence across many common law jurisdictions, including India³⁴.

Codified Modern Indian Criminal Law and Judicial Clarification of the Insanity Defence

Modern criminal jurisprudence has developed several doctrinal standards for determining criminal responsibility where the insanity defence is invoked, including the M'Naghten Rules, the Irresistible Impulse Test, and the Durham (or "Product") Rule. Among these, the M'Naghten Rules have exerted the greatest influence on common law jurisdictions. Under this framework, an accused is exempt from criminal liability where, at the time of the commission of the act, a disease of the mind rendered him incapable of understanding the nature and quality of the act or of knowing that the act was wrong. The doctrine is founded upon a presumption of sanity, which continues unless rebutted by sufficient evidence establishing legal insanity³⁵.

A decisive transformation in Indian criminal law occurred during the colonial period with the introduction of English common law principles. The establishment of the Indian Law Commission in 1833 and the subsequent enactment of the Indian Penal Code, 1860 under the leadership of Lord Macaulay institutionalized criminal responsibility on the basis of *mens rea*. Most significantly, Section 84 of the Indian Penal Code formally incorporated insanity as a general exception to criminal liability. This marked a fundamental shift from earlier conceptions of absolute moral accountability toward a system in which criminal responsibility depended upon the cognitive capacity of the accused.

³⁴ Bonnie, R. J., & Slobogin, C. (2009). The Role of Mental Illness in Criminal Trials: The Insanity Defense. *Journal of the American Academy of Psychiatry and the Law*, 37(3), p.338–349.

³⁵ H Priyadarshini, P M Krishnadhareeni, Histriocial Background Of Insanity Defence, *International Journal Of Law*, Volume 11, Issue 3, 2025, p.. 122-126.

The Indian Penal Code reflects the broader principle that criminal liability presupposes both capacity and culpability. Consequently, the Code codifies several general exceptions based upon the absence of mental capacity or volition, including infancy (Sections 82–83)³⁶, intoxication (Sections 85–86)³⁷, and unsoundness of mind (Section 84)³⁸. These provisions collectively embody the foundational principle that punishment is justified only where an individual possesses the capacity to understand and control his conduct.

Despite significant advances in psychiatry and forensic psychology, Indian criminal law relating to insanity has remained largely unchanged since its nineteenth-century codification. Judicial decisions have occasionally acknowledged the need for a more progressive approach. In *Ram Dulare's Case*³⁹, for instance, the courts recognized the limitations of the existing framework but expressed institutional constraints in undertaking substantive reform. In practice, harsh outcomes have often been mitigated through executive intervention under Sections 54⁴⁰ and 55⁴¹ of the Indian Penal Code rather than through doctrinal development of the insanity defence itself.

Academic commentators have repeatedly advocated for the recognition of diminished responsibility and partial mental impairment as mitigating factors in criminal adjudication. However, the Law Commission of India, in its Forty-Second Report, declined to recommend substantial reform, citing complex medico-legal concerns and difficulties in implementation. Likewise, subsequent mental health legislation has largely avoided addressing questions of criminal responsibility. As a result, Indian insanity jurisprudence continues to operate within a

³⁶ Sec. 82: Nothing is an offence which is done by a child under seven years of age, and Sec. 83: Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion. (Indian Penal Code, 1860).

³⁷ Sec. 85: Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law; provided that the thing which intoxicated him was administered to him without his knowledge or against his will, and Sec. 86: In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will. (Indian Penal Code, 1860).

³⁸ Sec. 84: Nothing is an offence 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. (Indian Penal Code, 1860).

³⁹ *Ram Dulare Ramadhin Surat v. State*, AIR 1958 MP 258; *State v Chottalal*, AIR 1959 MP 203.

⁴⁰ In every case in which sentence of death shall have been passed, the appropriate Government may, without the consent of the offender, commute the punishment for any other punishment provided by this Code. (Indian Penal Code, 1860).

⁴¹ In every case in which sentence of imprisonment for life shall have been passed, the appropriate Government may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years. (Indian Penal Code, 1860).

framework substantially derived from nineteenth-century legal assumptions. This doctrinal stagnation underscores the need for a more liberal and scientifically informed interpretation of Section 84, informed by contemporary developments in psychiatry, neuroscience, and forensic science, so as to align Indian criminal law with evolving international standards.

Indian courts consistently interpret Section 84 through the cognitive model embodied in the M’Naghten Rules. Consequently, the law recognizes only legal insanity and not medical insanity. Unsoundness of mind, for purposes of Section 84, refers to a mental condition that deprives the accused of the cognitive capacity necessary to understand the nature of the act or to appreciate that the act is wrong or contrary to law⁴². In *Kadar Nasyer Shah*⁴³, the court expressly held that Section 84 is founded upon the M’Naghten Rules and that criminal responsibility is excluded only where the accused, by reason of unsoundness of mind, was incapable of understanding either the nature of the act or its wrongfulness or illegality. Mere evidence of mental disorder, abnormality, or psychiatric diagnosis is insufficient; the relevant inquiry concerns the accused’s mental condition at the precise moment of the offence, although conduct immediately preceding and following the act may be considered in determining that condition.

The judiciary has repeatedly emphasized that criminal law is concerned solely with legal insanity. Accordingly, the existence of psychiatric illness does not automatically negate criminal responsibility unless the disorder renders the accused incapable of knowing the nature of the act or appreciating its wrongfulness. The crucial point of inquiry is the mental state of the accused at the time of the commission of the offence. Prior episodes of mental illness are relevant only insofar as they assist in determining whether legal insanity existed when the act occurred. Consequently, evidence concerning the accused’s conduct before, during, and after the offence frequently assumes significant evidentiary value⁴⁴.

Although the prosecution bears the burden of proving guilt beyond reasonable doubt, the accused bears the burden of establishing the defence of insanity under Section 105 of the Indian Evidence Act. However, this burden is considerably lighter than that imposed upon the prosecution. The accused is required only to establish insanity on a preponderance of probabilities, and it is sufficient if the evidence creates a reasonable doubt regarding the

⁴² *Surender Mishra v. State of Jharkhand* AIR 2011 SC 627

⁴³ *Queen Empress v. Kadar Nasyer Shah* (1896) ILR 23 Cal 604.

⁴⁴ *State of Madhya Pradesh v. Ahmadullah* AIR 1961 SC 998.

existence of the requisite *mens rea*.

The decisive judicial inquiry focuses upon whether the accused's cognitive faculties were substantially impaired at the time of the offence. Minor mental abnormalities, eccentricity, emotional instability, violent temperament, or susceptibility to provocation do not satisfy the requirements of Section 84⁴⁵. Judicial interpretation has classified unsoundness of mind into categories such as idiocy, *non compos mentis* resulting from illness, lunacy or madness, and intoxication. However, only those forms of mental incapacity that deprive the accused of understanding the nature or legality of the act qualify for exemption from criminal liability.

Courts have consistently maintained that the plea of insanity must be evaluated in light of the totality of circumstances, including medical history, psychiatric evidence, and conduct proximate to the offence⁴⁶. The defence applies only where the capacity to distinguish right from wrong is entirely extinguished⁴⁷. If the "guiding light" of reason merely flickers but is not extinguished, Section 84 does not apply⁴⁸. Judicial interpretation of the phrase "nature of the act," derived from the M'Naghten Rules, extends beyond mere awareness of physical conduct and encompasses an understanding of its quality and significance. Accordingly, awareness of the physical consequences of an act, without appreciation of its moral or legal implications, may still raise complex questions concerning criminal responsibility⁴⁹.

The burden imposed under Section 105⁵⁰ of the Indian Evidence Act remains a central feature of Indian insanity jurisprudence. Courts have consistently rejected theories based on irresistible impulse, emotional incapacity, or diminished volitional control as independent grounds for exculpation. Consequently, Section 84 continues to embody the classical principle that⁵¹ criminal liability requires a guilty mind and that exemption is available only where legal insanity destroys cognitive capacity at the time of the offence⁵².

The Supreme Court has repeatedly reaffirmed the distinction between medical insanity and

⁴⁵ Ramchandran v. State of Kerala 1986 Cri LJ 1222 (Ker)

⁴⁶ Vidya Devi v. State of Rajasthan 2004 Cri LJ 2332 (Raj).

⁴⁷ Shrikant Anandrao Bhosale v. State of Maharashtra (2002) 7 SCC 748

⁴⁸ Lakshmi v. State AIR 1959 All 534.

⁴⁹ Baswanta Bajirao v. Emperor AIR 1949 Nag 66.

⁵⁰ Section 105 of the Indian Evidence Act, 1872, When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the General Exceptions in the Indian Penal Code (45 of 1860), or within any special exception or proviso contained in any other part of the same Code, or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances.

⁵¹ Bapu @ Gajraj Singh v. State of Rajasthan (2007) 8 SCC 66

⁵² Ambi v. State of Kerala, 1962 CriLJ 135

legal insanity⁵³. Emotional imbalance, impulsive behaviour, eccentricity, partial delusion, or inability to control impulses do not, by themselves, amount to legal insanity. The Court has emphasized that Section 84 applies only where cognitive faculties are so impaired that the accused is incapable of understanding the nature and consequences of the act or appreciating that it is wrong or contrary to law. The Court has further distinguished between cases in which insanity itself is disputed and those in which insanity is established but its effect on criminal responsibility remains contested⁵⁴.

In assessing claims of insanity, courts routinely consider factors such as preparation for the offence, concealment of evidence, conduct after the act, attempts to evade detection, and efforts to escape apprehension. Such behaviour may indicate awareness of wrongdoing and thereby negate the defence.

The defence is therefore confined to situations in which the accused is incapable of understanding the nature of the act, appreciating its wrongfulness, or recognizing its illegality. Although the decision in *Ashiruddin Ahmed v. King*⁵⁵ proposed a three-test approach, subsequent judicial decisions criticized this interpretation for artificially fragmenting the statutory phrase “wrong or contrary to law.” Later courts, including those following *Geron Ali v. Emperor*⁵⁶, reaffirmed a predominantly cognitive framework consistent with the M’Naghten formulation.

The distinction between medical insanity and legal insanity remains one of the most firmly entrenched principles of Indian criminal law. Medical insanity encompasses a broad range of psychiatric disorders recognized by contemporary medicine. Legal insanity, by contrast, is narrowly defined and concerns only those conditions that destroy the accused’s cognitive capacity at the time of the offence⁵⁷. Consequently, not every person suffering from a mental illness qualifies for the defence. Criminal responsibility depends not upon diagnosis alone but upon the individual’s ability to understand the consequences of conduct, appreciate wrongfulness, and exercise rational judgment⁵⁸.

⁵³ Meh Ram v. State (1982) 3 SCC 247

⁵⁴ Hari Singh Gond v. State of Madhya Pradesh (2008) 16 SCC 109.

⁵⁵ 1949 Calcutta 182

⁵⁶ 1941 Cal 129

⁵⁷ Chajju Mal v. Emperor 94 Pun LR 1909.

⁵⁸ Pancha v. Emperor AIR 1932 All 233.

This distinction has been repeatedly endorsed by the judiciary. Courts presume sanity and assess criminal responsibility by examining the accused's mental condition at the time of the offence, drawing inferences from conduct before, during, and after the act⁵⁹. Where medical and legal assessments conflict, legal standards govern the determination of criminal liability. The Supreme Court reaffirmed this principle in *Shera Ram v. State of Rajasthan* (2012)⁶⁰, holding that the relevant inquiry under Section 84 concerns legal insanity rather than medical insanity.

Nevertheless, the continued reliance upon the M'Naghten framework has attracted sustained academic criticism. Although widely adopted during the nineteenth century, the Rules have been criticized for their narrow focus on cognition and their failure to accommodate modern understandings of mental illness. Edward B. Hill argued that⁶¹ legal responsibility should be determined through a more flexible inquiry into whether insanity caused the criminal act, rather than through rigid evidentiary thresholds. W. C. Sullivan⁶² similarly observed that the M'Naghten Rules were originally formulated to address delusional insanity and became increasingly problematic when applied to broader psychiatric disorders, particularly those involving impaired self-control.

Carl Cohen further challenged the conceptual separation of cognitive, emotional, and volitional faculties, emphasizing the integrated nature of human personality and psychological functioning⁶³. Ralph Brancale⁶⁴ subsequently demonstrated that compulsive disorders, including kleptomania and related conditions, may substantially impair self-control despite the preservation of cognitive awareness. Such critiques expose the limitations of a purely cognitive model and highlight the inability of the M'Naghten framework to accommodate varying degrees of mental incapacity.

Judicial interpretation has also generated debate regarding the meaning of the statutory phrase "wrong or contrary to law." Contemporary judicial authority generally treats these expressions as components of a single composite test. Under this approach, knowledge that an act is either

⁵⁹ Ram Kumar v. Ram Sunder AIR 1932 PC 69.

⁶⁰ (2012) 1 SCC 602.

⁶¹ Edward B. Hill, "Insanity as a Defence" in Charles E. Grenell, *Points of Law for Lawyers and General Readers Suggested by Guiteau's Case 22* (Little, Brown, and Company, Boston, 1881).

⁶² W.C. Sullivan, "Crime and Insanity" 85(3) *American Journal of Psychiatry* 213 (1924).

⁶³ Carl Cohen, "Criminal Responsibility and Knowledge of Right and Wrong" 14 *University of Miami Law Review* 30 (1959).

⁶⁴ Ralph Brancale, "More on M'Naghten: A Psychiatrist's View" 65 *Dickinson Law Review* 277 (1960).

morally wrong or legally prohibited ordinarily defeats the defence. Some earlier decisions, however, treated moral wrongfulness and legal wrongfulness as separate inquiries and occasionally granted acquittals where an accused understood the illegality of conduct but believed, because of delusion, that it was morally justified⁶⁵.

Subsequent jurisprudence has largely rejected such fragmentation. Modern courts have clarified that “wrong” refers to moral wrongfulness and “contrary to law” refers to legal wrongfulness, but both elements operate within a unified cognitive inquiry under Section 84⁶⁶. Accordingly, unless the accused is incapable of understanding the nature of the act itself or incapable of appreciating both its moral and legal significance, the defence cannot succeed.

Thus, Indian insanity jurisprudence remains firmly anchored in Section 84 of the Indian Penal Code and the cognitive principles of the M’Naghten Rules. While this framework continues to provide certainty and doctrinal consistency, its limited engagement with modern psychiatric knowledge has generated significant criticism. The tension between legal formalism and contemporary scientific understanding remains one of the most important unresolved challenges in the law of criminal responsibility, reinforcing calls for a more nuanced and interdisciplinary approach to mental incapacity within the Indian criminal justice system.

Constitutional Perspective on Mental Health, Mental Integrity, and Criminal Responsibility

Although the Constitution of India does not expressly enumerate a right to mental health or specifically address the insanity defence, judicial interpretation has progressively incorporated these concepts within the expansive ambit of Article 21. Through a series of transformative constitutional decisions, the Supreme Court of India has recognised mental well-being, psychological autonomy, cognitive liberty, and legal capacity as integral components of the rights to life and personal liberty. Consequently, mental health has evolved from a matter of medical concern to a constitutionally protected dimension of human dignity and individual freedom.

The constitutional foundation for the protection of mental health lies in the Supreme Court’s expansive interpretation of the right to life under Article 21. The Court has consistently held

⁶⁵ State of Maharashtra v. Sindhi @ Raman (1987) 89 Bom LR 423.

⁶⁶ Rambharose v. State of Madhya Pradesh, AIR 1954 SC 704.

that the right to health constitutes an inseparable and indispensable component of the right to life and that the State bears a corresponding constitutional obligation to ensure accessible, affordable, and adequate healthcare services, particularly for socially and economically vulnerable sections of society⁶⁷. This jurisprudential development reflects the broader understanding that constitutional rights extend beyond mere protection against physical deprivation and encompass conditions necessary for a dignified and meaningful existence.

Central to this constitutional evolution is the Court's repeated affirmation that the "right to life" under Article 21 signifies far more than mere animal existence. Rather, it includes the right to live with dignity, autonomy, and self-worth. Within this framework, mental well-being has emerged as an essential precondition for the meaningful enjoyment of constitutional freedoms. The recognition of dignity as a constitutional value has therefore provided the normative basis for extending constitutional protection to psychological health and mental integrity.

The constitutional significance of mental integrity was further reinforced through the recognition of privacy as a fundamental right. In its landmark privacy jurisprudence, the Supreme Court expressly acknowledged "mental privacy" and "informational self-determination" as core dimensions of personal liberty⁶⁸. By recognising the individual's authority over mental processes, thoughts, beliefs, and personal information, the Court expanded constitutional protections beyond bodily integrity to encompass cognitive autonomy and psychological freedom. This development established an important constitutional foundation for safeguarding individuals against unwarranted intrusion into the sphere of mental life.

The protection of mental autonomy received further affirmation when the Supreme Court invalidated the involuntary administration of narco-analysis, polygraph examinations, and Brain Electrical Activation Profile (BEAP) tests. The Court held that compelled disclosure of an individual's mental contents violates both the constitutional guarantee against self-incrimination and the broader right to privacy⁶⁹. In emphasizing the inviolability of what it described as the "cloisters of the mind," the Court recognized that constitutional protections extend to the inner realm of thought, cognition, and mental processes. This decision

⁶⁷ *Parmanand Katara v. Union of India*, (1989) 4 SCC 286; see also, *Vincet Panikurlangara v. Union of India*, (1987) 2 SCC 165 (Para.16); and see also, *Paschim Banga Khet Mazdoor Samity v. State of West Bengal & Another*, (1996) 4 SCC 37.

⁶⁸ *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017) 10 SCC 1.

⁶⁹ *Selvi v. State of Karnataka* (2010) AIR 2010 SC 1974.

significantly advanced the constitutional conception of mental integrity by affirming the individual's right to control access to his or her own mental states.

Within the context of criminal responsibility, the Supreme Court has consistently clarified that the concept of unsoundness of mind under criminal law is synonymous with legal insanity rather than medical insanity. The Court has emphasized that the existence of a psychiatric disorder alone does not suffice to attract the protection of Section 84 of the Indian Penal Code. Rather, criminal responsibility is excluded only where the mental condition impairs the accused's cognitive capacity to such an extent that he or she is incapable of understanding the nature of the act or appreciating its wrongfulness at the time of its commission. Determination of legal insanity remains a judicial inquiry informed by psychiatric evidence but ultimately governed by legal standards.

The constitutional recognition of mental health reached a significant milestone when the Supreme Court expressly declared mental health to be a fundamental right protected under Article 21. In the same judgment, the Court issued the "Saha Guidelines" for educational institutions, emphasizing the necessity of safeguarding psychological well-being and preventing conditions that may adversely affect mental health. This decision represented an important step in constitutionalizing mental health protections and extending them beyond the traditional domains of healthcare and criminal justice⁷⁰.

The Court has also recognised the profound relationship between mental health and equality. In its jurisprudence concerning sexual orientation, the Supreme Court held that the criminalisation of consensual same-sex relationships inflicts severe psychological harm and mental trauma upon affected individuals⁷¹. Such state-imposed stigma was found to violate constitutional guarantees of dignity, autonomy, and psychological well-being. By acknowledging the mental health consequences of discriminatory laws, the Court reinforced the principle that constitutional rights must be interpreted in a manner that protects both physical and psychological integrity.

Similarly, constitutional protection of mental autonomy has informed the Court's recognition of cognitive liberty and decisional self-determination in matters of medical treatment. The Supreme Court has affirmed that individuals possess the right to make informed decisions

⁷⁰ Sukdeb Saha v. State of Andhra Pradesh 2025 INSC 893.

⁷¹ Navtej Singh Johar v. Union of India, (2018) 10 SCC 1

regarding their own healthcare, including decisions relating to passive euthanasia and the refusal of life-sustaining treatment⁷². These developments reflect a broader constitutional commitment to respecting individual agency and self-determination in matters affecting bodily and mental integrity.

Mental health considerations have also influenced the Court's approach to criminal sentencing. Recognising the constitutional significance of human dignity and psychological well-being, the Supreme Court has held that the onset of severe mental illness following conviction constitutes a valid ground for commuting a sentence of death to life imprisonment⁷³. This approach reflects the Court's understanding that punishment must remain compatible with constitutional values and that mental illness may fundamentally alter the moral and legal justification for imposing the ultimate penalty.

The constitutionalisation of mental health has further extended into the domain of socio-economic rights. The Supreme Court has directed insurance companies to provide coverage for mental illnesses on terms equivalent to those applicable to physical illnesses, thereby affirming the principle of parity between mental and physical healthcare. This decision reflects the Court's broader commitment to eliminating discrimination against persons experiencing mental illness and ensuring substantive equality in access to healthcare services⁷⁴.

In addition, the Court has repeatedly emphasized the State's obligation to ensure humane and dignified living conditions for individuals residing in mental health institutions⁷⁵. Particular attention has been devoted to the protection of women housed in such facilities, with the judiciary underscoring the necessity of safeguarding their dignity, autonomy, and fundamental rights. These decisions demonstrate the Court's recognition that institutionalisation cannot justify the erosion of constitutional protections.

The judiciary has also adopted a purposive and rights-oriented interpretation of mental illness in cases involving persons with intellectual disabilities. By extending enhanced legal protections to victims of sexual violence suffering from intellectual impairments, the Court has sought to ensure that constitutional guarantees are responsive to the vulnerabilities associated

⁷² *Common Cause (A Regd. Society) v. Union of India*, (2018) 5 SCC 1

⁷³ *Accused 'X' v. State of Maharashtra* (2019) 7 SCC 1.

⁷⁴ *Shikha Nischal v. National Insurance Co.* 2021 SCC OnLine Del 1713

⁷⁵ *Ravinder Kaur v. State of Haryana* (2015) 12 SCC 588

with mental and cognitive disabilities⁷⁶. Such jurisprudence reflects a growing commitment to substantive equality and the protection of marginalized groups.

A particularly significant contribution to mental health jurisprudence emerged through public interest litigation exposing the deplorable conditions prevailing in mental asylums, psychiatric institutions, and prisons. These proceedings catalysed substantial reforms by drawing attention to systemic neglect, inhumane treatment, and violations of fundamental rights. Through judicial intervention, the Court transformed mental health from a peripheral administrative concern into a matter of constitutional accountability⁷⁷.

The constitutional status of mental health was most explicitly affirmed in a recent transformative judgment in which the Supreme Court declared that “there is no health without mental health.” Recognising mental well-being as an indispensable component of the right to life and dignity, the Court elevated the protections embodied in the Mental Healthcare Act, 2017 to a constitutional plane. This development represents the culmination of decades of judicial expansion under Article 21 and firmly establishes mental health, mental integrity, and psychological autonomy as constitutionally protected rights within the Indian legal order.

Viewed collectively, these decisions demonstrate a significant constitutional shift from a narrow understanding of mental illness as a medical condition toward a broader recognition of mental health as a fundamental human rights concern. Contemporary constitutional jurisprudence increasingly conceives mental integrity as an essential component of dignity, privacy, autonomy, equality, and personal liberty. This evolving framework provides an important normative foundation for re-examining the insanity defence and criminal responsibility in light of constitutional values, contemporary psychiatric knowledge, and international human rights standards.

The Mental Healthcare Act, 2017: A Rights-Based Approach to Mental Integrity and Criminal Responsibility

The enactment of the Mental Healthcare Act, 2017 (MHCA) represents a transformative development in Indian mental health jurisprudence, marking a decisive departure from the traditional custodial and welfare-oriented model of psychiatric care towards a rights-based

⁷⁶ *Eera v. State (NCT of Delhi)*, (2017) 15 SCC 133.

⁷⁷ *Sheela Barse v. Union of India* (1986) 3 SCC 596

framework grounded in dignity, autonomy, equality, and mental integrity. Influenced by contemporary human rights standards and the principles embodied in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the Act reorients mental healthcare from a system primarily concerned with institutional control to one focused on individual rights, informed decision-making, and personal autonomy.

At the heart of the MHCA lies the recognition of mental integrity, understood as the protection of an individual's psychological, cognitive, and decisional sphere against arbitrary or non-consensual interference. Although the Act does not explicitly employ the term "mental integrity," its normative structure implicitly safeguards this principle through a range of substantive and procedural protections. These include the presumption of mental capacity, the right to make mental healthcare decisions, informed consent requirements, advance directives, nominated representatives, confidentiality protections, and the obligation to provide treatment in the least restrictive environment possible. In particular, Sections 4 to 11 of the Act affirm the autonomy of persons with mental illness by recognizing their capacity to make informed choices regarding treatment and care, thereby reinforcing the principle that mental illness does not automatically negate legal agency or decisional competence.

The significance of the MHCA extends beyond the domain of healthcare and assumes particular relevance within the framework of criminal law. The Act intersects with established doctrines of criminal responsibility, most notably the defence of unsoundness of mind under Section 84 of the Indian Penal Code, 1860 (now reflected in the Bharatiya Nyaya Sanhita, 2023), as well as procedural safeguards governing the investigation, trial, and detention of persons with mental illness under the Code of Criminal Procedure, 1973 and the Bharatiya Nagarik Suraksha Sanhita, 2023. While criminal responsibility under Section 84 continues to depend upon proof of cognitive incapacity at the time of the commission of the offence, the MHCA introduces a more nuanced understanding of mental illness⁷⁸ by emphasizing capacity-based assessments rather than broad assumptions of incompetence.

Importantly, the Act rejects the historically prevalent tendency to equate mental illness with incapacity. Instead, it adopts an individualized and functional approach that requires assessment of a person's actual decision-making ability in a specific context. This approach is

⁷⁸ Philip, Sharad; et al., Shifting Sands: Mental Disorder Defense from Section 84 IPC to Bharatiya Nyaya Sanhita. *Indian Journal of Psychiatry* 66(8):p 764-765, August 2024. DOI: 10.4103/indianjpsychiatry.indianjpsychiatry_572_24

consistent with contemporary psychiatric knowledge and international human rights standards, which recognize that mental illness exists on a spectrum and does not invariably impair a person's ability to exercise judgment, make decisions, or assume legal responsibility. Consequently, the MHCA reinforces the principle that the existence of a mental disorder, by itself, cannot justify either the denial of autonomy or the automatic exclusion of criminal responsibility.

The Act further strengthens safeguards against arbitrary detention and coercive institutionalization. By prioritizing community-based care, informed consent, periodic review mechanisms, and judicial oversight of involuntary admissions, the MHCA seeks to ensure that restrictions on liberty are imposed only when strictly necessary and proportionate. These protections are particularly significant in the forensic context, where individuals with mental illness may be subjected to custodial measures following criminal proceedings. The Act thereby introduces a rights-sensitive framework that balances concerns of public safety with the constitutional imperative of protecting individual dignity and autonomy.

From a constitutional perspective, the MHCA gives practical effect to the expansive interpretation of Article 21 of the Constitution of India. By recognizing autonomy, decisional freedom, privacy, and access to mental healthcare as essential aspects of human dignity, the Act operationalizes constitutional guarantees of life and personal liberty in the context of mental health. It also reflects the judiciary's evolving recognition that mental well-being is an indispensable component of the right to live with dignity and that persons with mental illness are entitled to equal respect, protection, and participation within society.

The MHCA thus represents a significant step toward harmonizing Indian mental health law with contemporary constitutional values and international human rights norms. In the sphere of criminal justice, it encourages a more sophisticated understanding of the relationship between mental illness and criminal responsibility by emphasizing individualized assessment, therapeutic intervention, and procedural fairness. While the determination of legal insanity under criminal law continues to be governed by the cognitive standards embodied in Section 84, the Act provides an important normative framework for ensuring that assessments of culpability are informed by modern psychiatric knowledge and conducted in a manner consistent with human dignity and personal autonomy.

Accordingly, the Mental Healthcare Act, 2017 serves as a crucial bridge between mental health

law, constitutional jurisprudence, and criminal justice. By promoting therapeutic justice while simultaneously safeguarding autonomy and mental integrity, the Act strengthens the constitutional commitment to a humane and rights-oriented legal order in which persons with mental illness are treated not merely as subjects of care or control, but as rights-bearing individuals entitled to equal protection and respect under the law.

Conclusion and Recommendations

The evolution of the insanity defence in India reflects not merely the continuity of a long-established legal doctrine but a deeper transformation in the conceptual foundations of criminal responsibility and blameworthiness. Historically rooted in moral and philosophical understandings of rational agency, the defence developed through classical, Roman, ecclesiastical, and common law traditions before being codified in India through Section 84 of the Indian Penal Code, 1860. Although the provision continues to embody the nineteenth-century cognitive framework of the M’Naghten Rules, its operation today occurs within a significantly altered constitutional and human rights landscape. Consequently, the insanity defence can no longer be understood solely as an exception to criminal liability; it must also be examined through the lens of dignity, autonomy, mental integrity, and substantive justice.

The foundational principle underlying Section 84 remains that criminal punishment is justified only where an individual possesses the rational capacity necessary to understand the nature and consequences of conduct and to appreciate its wrongfulness. This premise reflects the enduring relationship between *mens rea*, moral agency, and criminal responsibility. Indian courts have consistently maintained a careful distinction between medical insanity and legal insanity, emphasizing that the mere existence of a psychiatric diagnosis does not, by itself, extinguish criminal liability. Rather, exemption from punishment is available only where mental incapacity destroys the cognitive faculties required for legal responsibility at the time of the offence. This approach preserves the normative integrity of criminal law by ensuring that culpability remains linked to an individual's capacity for rational understanding and moral judgment.

At the same time, contemporary constitutional jurisprudence has significantly expanded the legal understanding of mental health and mental integrity. Through an evolving interpretation of Article 21 of the Constitution, the Supreme Court of India has recognized mental well-

being⁷⁹, psychological autonomy, cognitive liberty, privacy, and decisional self-determination as integral components of the right to life and personal liberty. These developments have transformed mental health from a purely medical concern into a constitutional and human rights issue, thereby requiring criminal law doctrines to be interpreted consistently with broader constitutional values.

The enactment of the Mental Healthcare Act, 2017 further reinforces this shift. By replacing a custodial and paternalistic approach with a rights-based framework grounded in dignity, autonomy, informed consent, and capacity, the Act reflects contemporary understandings of mental illness and personhood. Its emphasis on individualized assessment, least restrictive care, and respect for decision-making autonomy demonstrates a significant departure from historical assumptions that equated mental illness with incompetence. Although the Act does not alter the substantive requirements of Section 84, it provides an important normative framework for evaluating the relationship between mental disorder, legal capacity, and criminal responsibility.

Notwithstanding these developments, a significant doctrinal tension remains embedded within Indian insanity jurisprudence. The legal test under Section 84 continues to rely almost exclusively upon a cognitive conception of incapacity derived from the M'Naghten Rules. Modern psychiatric and psychological research, however, increasingly recognizes that mental disorders may impair not only cognition but also volition, emotional regulation, impulse control, and behavioural judgment. Consequently, individuals may possess a limited awareness of the nature or wrongfulness of their conduct while simultaneously lacking meaningful capacity to regulate their behaviour. The existing legal framework provides little room for accommodating such complexities and therefore risks excluding individuals whose mental impairments substantially affect culpability without completely destroying cognitive awareness.

The challenge for contemporary Indian jurisprudence is therefore to reconcile the traditional principles of criminal responsibility with evolving constitutional commitments to dignity, autonomy, equality, and mental integrity. Any future reform must avoid two equally problematic extremes. On the one hand, criminal responsibility should not be reduced to the mere presence of a psychiatric diagnosis, as this would undermine the moral foundations of criminal liability. On the other hand, the law cannot remain entirely insulated from advances

⁷⁹ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248

in psychiatry, neuroscience, and forensic psychology that reveal more nuanced forms of mental incapacity than those contemplated by nineteenth-century legal doctrine. A constitutionally coherent approach requires a balanced framework that preserves accountability while remaining responsive to contemporary scientific understanding of mental functioning.

Recommendations

In light of the foregoing analysis, several reforms may be considered to strengthen the coherence, fairness, and effectiveness of Indian insanity jurisprudence.

First, courts should adopt a more structured and scientifically informed approach to assessing the competency of accused persons to stand trial. Before criminal proceedings continue, it must be determined whether the accused possesses sufficient mental capacity to understand the nature of the proceedings, consult with counsel, and effectively participate in his or her defence. Such an inquiry is essential to ensuring procedural fairness and protecting the integrity of the criminal justice process⁸⁰.

Second, adjudication of the insanity defence should continue to focus on the accused's cognitive and moral capacity at the time of the offence, while incorporating contemporary psychiatric evidence in a more meaningful and systematic manner. Determinations of criminal responsibility should evaluate not only whether the accused understood the physical nature of the act but also whether he or she possessed the capacity to appreciate its moral and legal consequences.

Third, greater consideration should be given to doctrines of diminished responsibility or diminished capacity in appropriate cases. Where a mental disorder substantially impairs an individual's ability to form specific intent, exercise rational judgment, or control behaviour, the law should recognize intermediate forms of culpability rather than relying exclusively upon the binary distinction between complete responsibility and total exculpation. Such an approach would better reflect contemporary psychiatric knowledge while preserving the fundamental principles of criminal accountability.

Fourth, treatment-oriented responses should increasingly supplement or replace purely punitive sanctions for offenders suffering from serious mental disorders. Mandatory

⁸⁰ Dusky v. United States 362, U.S. 402 (1960)

psychiatric treatment, secure therapeutic hospitalization, forensic rehabilitation programmes, and community-based mental health interventions may often provide a more effective and humane response than conventional imprisonment. Such measures not only advance the rehabilitative objectives of criminal justice but also reduce the risk of recidivism and promote long-term public safety.

Fifth, judicial interpretation of Section 84 should be informed by constitutional values embodied in Article 21, including dignity, autonomy, privacy, and mental integrity. A purposive and rights-oriented approach would enable courts to apply existing legal principles in a manner consistent with contemporary constitutional jurisprudence without necessarily requiring immediate legislative amendment⁸¹.

Ultimately, the future development of the insanity defence in India must be guided by an integrated understanding of criminal law, constitutional rights, forensic psychiatry, and human dignity. The law must continue to hold individuals accountable where genuine moral agency exists, while simultaneously recognizing that punishment loses its moral legitimacy when imposed upon those who lack the mental capacity necessary for responsible choice. A legal framework grounded in this balance will not only preserve the normative foundations of criminal responsibility but also fulfil the constitutional promise of dignity, autonomy, and mental integrity for all persons, including those experiencing mental illness.

⁸¹ S.J. Morse, An accurate diagnosis, but is there a cure? In Robin Feldman, an Appreciation of the Role of Science in Law, 3 *Hastings SCI & TECH L. J.* 157 (2010).