

# Insanity Defense: A Loophole for Criminals

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## ARTICLE INFO

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### Dates:

Received: 30-09-2022  
Accepted: 16-11-2022  
Published: 28-12-2022

### Keywords:

Penal, preponderance  
of proof, criminal  
prosecutions, prison  
insanity, civil case,  
loophole

### How to Cite:

Singh A. (2022) Insanity  
Defense: A Loophole for  
Criminals. DME Journal  
of Law, 3(1), 48-54.  
doi: 10.53361/dmejl.  
v3i01.07

## Abstract

Section 84 of the Indian Penal Code (IPC), 1860 offers the defense plea for the person of unsound mind or who is insane. It may be stated that if the accused's character is devoted against the law and he proves within the courtroom docket of regulation that he turned into insane at some stage in the occurrence of crime, he may break out punishment. The regulation is open to misuse via ways of means resorted to by.

In the Indian legal system, "insanity defense" is a device in criminal regulation to shift an alleged criminal from the responsibility of a crime. It is primarily based totally on the idea that during the crime, the man or woman became affected by intellectual infection and, consequently, became incapable of applying expertise in what they were doing. It is right to refer here that a criminal idea which is consequently affected by intellectual disease isn't enough to show and prove insanity. The burden of proof to show insanity is at the alleged and he/she has to deliver the courtroom docket with proof much like that of "preponderance of probability" as within the civil case.

The insanity defense is thoroughly and massively utilized in criminal prosecutions. It's far based totally on the idea that at the time of the crime, the accused modified into laid low with immoderate highbrow contamination and consequently, changed into incapable of appreciating the person of the crime and differentiating right from incorrect behavior, consequently making them now no longer legally chargeable for the crime. The accused has the load of proving the exception of insanity by using a "preponderance of probability" that's just like a civil case. It's far hard to determine prison insanity, or even harder to efficaciously protect it in the courtroom. This article specializes in the idea of insanity in regulation and the way it has come to be a loophole within the present day judicial system. The goal of writing this paper is to establish whether a long-standing law still serves a purpose or has just become a loophole. In this paper, several aspects of Section 84 are relevant to this situation.

## INTRODUCTION

Insanity is regarded as a criminal characteristic. Because mental illness hinders a person from exercising free will, they are not prosecuted for the crimes that they have committed. However, this does not rule out the use of evidence to evaluate the responsibilities of justice in a particular situation.

Mental insanity is a defense that is regularly invoked in criminal trials. It is presumed that the defendant was suffering from a severe mental illness at the time of the offense, rendering them incapable of recognizing the nature of the crime and distinguishing between right and wrong behavior, so absolving them

of any legal guilt. The defense of insanity is now a recognized legal concept.

It also implies that the presence of a mental disorder does not establish insanity. For the same reason that a criminal trial is held, the accused must prove that the defense claimant is insane by a “preponderance of evidence.” In a courtroom or on the day of the hearing, it is difficult to establish legal insanity and even more difficult to establish exact facts.

The concepts of guilt and innocence, blame and punishment, and other related concepts are all connected with the concept of responsibility. People’s fundamental human and constitutional rights are violated when they are punished for a crime for which they are not responsible. It also incorporates due process of law in the event that the individual is unable to defend himself in court, invoking the concept of natural justice in the process.

The necessity of “mens rea” is stipulated by the Indian Penal Code (IPC). Nevertheless, when there is no evidence of malice aforethought and the action was carried out as a result of compelling circumstances, the action falls under the general exceptions set forth in Sections 76–106 of the IPC. The individual is therefore held legally accountable for their acts. If the defense is successfully demonstrated in court, the exemption is granted. Insanity is a legal defense that can be used in criminal cases to demonstrate that the defendant was suffering from a serious mental disease at the time of the offense.

Consequently, the individual may be completely unaware of their conscious thought. Insanity is a defense that can be used by a person who is not mentally ill in order to avoid punishment; nevertheless, this defense is only granted in exceptional circumstances. While the defense of insanity was established to assist the judicial system, the vast majority of people use it to avoid facing legal repercussions. People will become more involved in such crimes if there are no disincentives in place. The research revolves around three pertinent research questions: How might the insanity defense be used to benefit criminals? Is this a strategy that should be used every time? When should you employ

the insanity defense? This paper discusses the concept of defense of insanity, its advantages and disadvantages, and the legal response to the issue.

Insanity is defined as the inability to recognize the nature of one’s actions, as well as the detrimental or illegal implications of one’s decisions. When a person’s cognitive faculties are impaired to the degree where they are unable to comprehend the repercussions of their actions, they are said to be suffering from schizophrenia. It is difficult to define insanity objectively while adhering to the letter of the law. When it comes to mental illness or mental disease, insanity is generally associated with it. A mental disorder severe enough to prevent a person from exercising legal competence and, as a result, from being held criminally or civilly liable.<sup>1</sup> Mental illness, mental disease, and mental defect are all medical terminology that refer to illnesses that necessitate psychiatric or psychological intervention or treatment. In other words, while someone suffering from a mental illness, disease, or disorder can be considered legally crazy under certain circumstances; nevertheless, someone who does not suffer from such a condition cannot be considered legally insane under same circumstances.

## **The Insanity Defense**

The M’Naughton Rule’s serves as the foundation for the insanity defense law in the IPC.

Section 84<sup>2</sup> criminalizes “the conduct of a mentally ill individual,” according to the official translation. When a person attempts to conduct an infraction but is unable to understand the nature of the activity or engages in illegal or unlawful behavior, the attempt is not deemed an offense under the law.

Allow this segment to go into the depths of the subject. It will not be sufficient in this case to present evidence of insanity. According to the principle of “actus non facit reum nisi mens sit rea”, a criminal act must be committed with the intent to commit a crime.

Whether the accused intended to conduct the specified thing is equally important in determining whether or not they are guilty or not is determined by their intent. Understanding the person’s mental

<sup>1</sup> Black’s Law Dictionary

<sup>2</sup> The Indian Penal Code, Act 45 of 1860 Sec 84

status is also essential to comprehend the crime that was committed on them. It is necessary to demonstrate that the accused held the necessary "men" responsible for the conduct committed in order to establish strict liability, subject to specific exemptions.

In accordance with Section 84 of the IPC,

- "Actus Non-Facit Reum Nisi Mens Sit Rea" - an act is not criminal unless it is done with the intent to commit a crime.
- "Furiosi nulla voluntas est" - a mentally ill person is unable to exercise free will;

In accordance with the applicable jurisdiction, courts employ one or more of the following tests:

- According to the M'Naughton Rule, the defendant is unable to comprehend or distinguish between right and wrong as a result of psychiatric disease.
- Because of a mental condition, the defendant was unable to control his impulses, which resulted in him committing a criminal conduct.
- As a result of his involvement in a criminal offense, the defendant's "mental impairment" was not professionally identified and treated.
- This means that the defendant either did not understand or was unable to function within the limitations of the law when his conduct was unlawful in nature.

Many states that recognise legal insanity rely on the M'Naughton rule (which is frequently employed in conjunction with the irresistible impulse test) or the Model Penal Code as a guideline. Only one state, New Hampshire, utilizes the traditional Durham.

## Types Of Insanity For Defense

A legal defense in which an accused admits to committing a crime but claims he is not accountable as a result of a major mental disease is defined as follows:

It's more of an excuse than it is an explanation in this case. This is a legitimate defense in the event of criminal prosecution. The psychiatric evaluation of a criminal is now required by law. In criminal law, the concept of "state of mind" is just as significant as the concept of "mens rea." The absence of a mental illness is the primary emphasis of the doctrine of mens rea. It is vital to analyse both the criminal's mental and physical state during the investigation.

When someone's mental status prevents them from committing criminal activity, they are labelled insane. In India, the "Insanity Defense" is a legal approach used to exonerate criminal defendants who have been found insane. It is presumptively assumed that the individual was mentally ill and couldn't grasp their acts.

One of the most severe forms of schizophrenia is chronic schizophrenia, which is characterized by the belief that the individual suffering from it is forever mad. It is possible that the person is permanently mad, unable to comprehend the gravity of any situation, based on their past records and experiences.

Second, transient insanity is caused by the Paraneoplastic Syndrome, which is a mental illness that results in brief periods of madness. Transient insanity can manifest itself in the form of depression, anxiety disorders, schizophrenia, and other mental illnesses. Not guilty by reason of insanity, or guilty but unable to be tried due to insanity, respectively. If the suspect is found to be crazy at the time of the alleged offense, it must be demonstrated that he was incapable of comprehending or apprehending the essence of his or her actions. Mental illness has never been used as an excuse for criminal behaviour in the United States. The suspect's mental state should be so deteriorated that he is unable to comprehend the nature of the crime.

## The Evolution Of Insanity Defense

Historically, rules against insanity extend back to ancient Greece and Rome. According to a 1581 "English law book," a "lunatic" who murders someone while in a state of mental illness will not be punished. The "Wild Beast" test was developed in the 18th century by British courts, which states that an accused person is not guilty if they knew "an infant or a wild beast" at the time of the crime. It was the nation's first legal statute, and it cleared the way for the establishment of the law of insanity in the United States. It also marked the beginning of the fight for the Defense of Insanity. Following the success of the "Wild Beast Test," a slew of other tests, such as the "Crazy Delusion Test" and the "Good and Evil Test," were developed. These three criteria served as the foundation for the Insanity Defense

and the world-renowned M'Naughton Test, among other things.

The M'Naughton's Test was developed by the English courts in the case of *R v. M'Naughton*<sup>3</sup>, which is now Section 84 of the criminal procedure code in the United States. M'Naughton accidentally shot Edward Drummond in the head after mistaking him for someone else. Because of his mental instability, he was dismissed by the court. The jury, on the other hand, found him to be mentally ill and recommended that he be institutionalised. Because of this decision, the "House of Lords" debated M'Naughton's Rules, summarised in the following section.

1. Each individual is presumed sane and logical enough to be held accountable for his acts unless and until proven otherwise.
2. In order to establish insanity as a basis for defense, there must be substantial evidence that the accused was insane at the time of the offense or that his actions were unlawful or contradictory to the law.
3. If the accused was aware that he was about to commit an illegal act, he is responsible.
4. A medical witness who has not encountered the accused prior to the trial is not qualified to decide about his or her mental condition.
5. The criminal activity is carried out by a hallucinating individual who is completely oblivious of what he is doing. He will be held accountable for his conduct in the same way that he was held accountable for his activities when he believed his surroundings were the same.

In the field of insanity defense, these guidelines form precedents that are followed by other courts. When a person is suspected of committing a crime, the criteria place a strong emphasis on determining their "understandability." It is necessary to establish insanity by showing that the accused lacked judgement, either because he was utterly unconcerned about the nature and seriousness of the crime, or because he was not completely aware that his conduct were wrong. In Indian law, the term "insanity" does not appear to be defined in any way.

According to Section 84 of the IPC, "nothing" constitutes an offense "if it is performed by someone

who is incapable of recognizing the nature of their behavior or the fact that they are breaking the law." M'Naughton's Rule is invoked by the code to justify insanity.

Both of the following key criminal law principles are included in Section 84 of the Penal Code:

1. "Actus non facit reum nisi mens sit rea": An act is not criminal unless the mentality is guilty.
2. "Furiosi nulla voluntas est": People suffering from mental diseases as a result are not held accountable because they lack the ability to reason rationally or to demonstrate the necessary guilty intent.

## **The Benefits of Insanity Defense**

The insanity defense helps to preserve the lives of mentally ill persons who behave like children, completely unaware of what they are doing or the repercussions of their actions and decisions. A person who has been insane for a long period of time is unable to comprehend the gravity or nature of the deed that they have admitted to having committed.

Infractions are considered violations of the law, whereas offenses are considered violations of the suspect's human dignity. Following the commission of the offense, defense actions are taken. It is beneficial to the mentally sick individual who employs this defense technique.

## **Inconvenience of Insanity Defense**

The use of the insanity defense to exonerate the guilty has been frequently misapplied, putting the concept of the rule of law in risk of being eroded further. Because of widespread abuse, numerous countries, including Germany, Argentina, Thailand, and the majority of the United Kingdom, have prohibited the use of this defense.

Because the burden of proving insanity rests with the accused, establishing and asserting this defense will involve time and effort on his or her part. When it comes to demonstrating insanity in a medical setting, it is rather straightforward; however, proving it in a judicial setting takes time and requires persuasive evidence.

The majority of insanity defense cases end up with the accused being charged with criminal

<sup>3</sup> *R v. M'Naughton*, (1843) 8 Eng. Rep. 718, 722

responsibility and punished because it is impractical to meet all of the requirements for avoiding criminal responsibility under Section 84.

Consequently, it is impossible to determine whether someone's thinking was "sound or unsound" when the crime was committed.

## Criticism

Despite the fact that insanity is rarely used as a defense in criminal proceedings, it is still a contentious issue. We question if it is necessary to defend crazy on a regular basis. As a result of the possibility of proving insanity in some situations, a person accused of heinous and grievous acts will be declared not guilty. When the defense of insanity is raised, the defendant admits to his or her crime and asks that the case be dismissed on the grounds of the defendant's or her mental state. Criminals have been known to pretend mental illness in order to avoid being apprehended. Using insanity as a defense is, at the very least, hazardous. A fundamental principle of criminal law appears to be in danger of being overturned. The concept of insanity is founded on the notion that punishment is only justifiable if the criminal deserves it in the first place. If the person who committed the crime is to be punished, he or she must have moral culpability as a moral actor. The inability to manage irrationality or compulsions that result from a mental disease makes a person incapable of acting in a morally responsible manner. Punishing someone who is suffering from such a serious illness would be unjust. Section 84 treats mental illness and cognitive disability as synonymous. Other types of mental diseases are not accepted as evidence in courts of law. A variety of psychological disorders can impair a person's capacity to operate to the point that they lose control over their behavior and become dependent on others. These are disorders of the mind and one may mention about the exceptions under Section 300 IPC like grave and sudden provocation. It is possible for someone to be completely be unaware of what they have done until after the event has occurred. His behaviours, on the other hand, were dictated by his current emotional state. It's possible that his cognitive functioning is fully normal.

Despite the fact that Section 84<sup>4</sup> is intended to ensure that mentally ill individuals receive proper treatment, mistakes do occur from time to time. Therefore, more generic concepts like as emotions and pre-act conditions must be taken into consideration. There are plans to widen the definition of legal insanity to include more indications of medical insanity in the future. In order to eradicate crime, rather than focusing on the individual, the attention should be on the entire community. Instead, these criminals should be detained in psychiatric facilities and evaluated for their mental health in order to avoid erroneous acquittals or convictions in the future. People's fate should not be left to the whims of a single judge, but should instead be decided after consultation with a psychiatrist. A judge may be obligated by law to make a specific judgement in a particular case. It should be necessary to obtain a doctor's note.

## Landmark Insanity Defense Case

In the case of *Ashirudeen Ahamed v. The King* (1948) the court sought to create a new standard of insanity for the first time. In order to qualify for protection under Section 84<sup>5</sup>, the accused must demonstrate that he was unaware of the nature of the alleged act, that the act was illegal, or that he had no idea that what he was doing was illegal in the first place.

In the case of *Dayabhai Chhagan bhai Thakkar v. Gujarat*<sup>6</sup>, the court established the following criteria for determining the accused's mental state: In order to determine the suspect's mental state, it is necessary to look at the events leading up to, during, and immediately following the crime.

In *Bapu Gajraj Singh v. State of Rajasthan*<sup>7</sup>, the Supreme Court defined this defense by stating which conditions are covered by this defense. Insane, egotistical, or irascible behaviour, as well as any illness that impairs one's ability to control one's thoughts, emotions, or willpower, are all outlawed

<sup>4</sup> The Indian Penal Code, Act 45 of 1860 Sec 84

<sup>5</sup> *ibid*

<sup>6</sup> *Dayabhai Chhaganbhai Thakkar v. State of Gujarat* AIR 1964 SC 1563.

<sup>7</sup> *Bapu Gajraj Singh v. State of Rajasthan* (2007) 3 SCC 509.

by law. When the accused suffers from periods of insanity or epilepsy but otherwise appears normal, this is also insufficient evidence.

In 2008, the Supreme Court of India ruled in *Hari Singh Gond v. State of Madhya Pradesh*<sup>8</sup> that Section 84 of the IPC governs accountability in cases of alleged insanity.”

Despite being historically associated with mental illness, the term “insanity,” is not defined. The stages of mental illness are described by this term. The condition of a person’s mind does not absolve them of criminal guilt. According to the author, there must be a distinction between insanity and medical insanity. The court only deals with legal madness, not medical lunacy, as its primary focus. In the case of *Surendra Mishra v. State of Jharkhand*<sup>9</sup>, the Supreme Court held that a prisoner must demonstrate “legal insanity” rather than “medical insanity” in order to be exonerated under Section 84 of the IPC, rather than “medical insanity.” The court must go back in time to the time when the crime was committed in order to determine the accused’s state of mind. The only method to decide whether or not the accused was in a state of mind that qualified him for Section 84<sup>10</sup> protection is to investigate the events leading up to, during, and immediately following the offense. Clearly, evidence of the accused’s mental condition at the time of the offense must be shown in order to qualify for the exemption from prosecution.”

In *Lakshmi v. State*<sup>11</sup>, the court emphasised that an accused must be “incapable” of knowing whether his activities are legal or illegal in order to be found not guilty under Section 84<sup>12</sup>. Knowledge of something is distinct from the actual possession of that knowledge. The former is a possibility, whereas the latter is a consequence. Regardless of what happens, a person who possesses the former is not protected by the law. A natural or inherent deficiency may be protected, but a mistaken or erroneous belief arising from a changed potential will not be protected under any circumstances.”

## Burden of Proof

Section 105 of Indian Evidence Act<sup>13</sup> provides for the assertion of insanity as an affirmative defense to a criminal allegation levelled against an individual. In criminal proceedings, the burden of proof is always on the prosecution and never shifts from one side to the other. Essentially, this is based on the fundamental premise that an accused person is presumed innocent until and unless proven guilty by the prosecution. As stated in Section 84<sup>14</sup>, the accused must demonstrate that he was mad both before and after the alleged crime occurred. The court stated in *State of MP v. Ahamadullah*<sup>15</sup> that “the general legal assumption is that an offender is sane at the time of the offense.” This alleviates prosecutors from having to establish an accused’s mental capacity. Therefore, the accused must establish the existence of conditions that fall under the purview of Section 84<sup>16</sup>. All that is required of the accused is to demonstrate that he or she was insane at the time of the crime. In this particular instance, the preponderance of the evidence in his favour is sufficient to show his innocence of the charges.

## Interpretation by The Judicial System

In criminal cases, and particularly homicide cases, insanity has long been recognised as a valid defense. Everyone is assumed to be the sane until they are proven to be insane. Because the prosecution must prove that the defendant was insane at the time of the offense, mental illness and psychopathy cannot be used to obtain immunity from prosecution, according to a Supreme Court decision.

DK Jain’s husband slashed his wife’s head off due to mental illness in the case of *DK Jain*. Section 84<sup>17</sup>, as established in the case of *Hari Singh Gond vs. State of Madhya Pradesh*<sup>18</sup>, establishes a legal bar for responsibility in circumstances of serious mental illness. The concept of “mental health” is a

8 *Hari Singh Gond v. State of Madhya Pradesh*, (2008) 16 SCC 109

9 *Surendra Mishra v State of Jharkhand*, AIR 2011 SC 627

10 The Indian Penal Code, Act 45 of 1860 Sec 84

11 *Lakshmi v. State*, AIR 1963 All 534

12 The Indian Penal Code, Act 45 of 1860 Sec 84

13 The Indian Evidence Act, Act 1 of 1872 Sec 105

14 The Indian Penal Code, Act 45 of 1860 Sec 84

15 *State of Madhya Pradesh v. Ahamadullah*, AIR 1921 SC 998

16 The Indian Penal Code, Act 45 of 1860 Sec 84

17 *ibid*

18 *Hari Singh Gond v. State of Madhya Pradesh*, AIR 2009 SC

31 SCC 109

fallacy. However, the term “insanity” has no inherent meaning. This phrase refers to a wide range of mental illnesses that are characterized by recurring episodes of insanity.

In the case of Kamala Bunia’s case (Kamala Bhuniya vs State Of West Bengal, 2006), the defendant was charged with murder and tried as an axis for the crime. The prosecution failed to discharge his original responsibility for the accused’s mens rea involvement at the time of the offense, which resulted in the conviction. Consequently, they are granted Section 84<sup>19</sup> while demonstrating their insanity at the time of their crime.

## CONCLUSION

According to the findings of the investigation, Section 84<sup>20</sup> includes the M’Naughton Rules. It deals with the defense of insanity, which is based only on the behaviour of the suspect and is the only criterion for criminal guilt in the United States of America. The ability to determine someone’s mental state at the time of a crime is difficult for law enforcement officers to achieve. In addition, proving innocence in the case of a mentally ill person is difficult to accomplish. This line of reasoning may be used by a logical person to avoid punishment.

The condition constitutes a loophole since it impairs

<sup>19</sup> The Indian Penal Code, Act 45 of 1860 Sec 84

<sup>20</sup> *ibid*

the ability of the law to achieve its primary objective. Another reason why the act is a loophole is that the court must ascertain the defendant’s intent, which is an extremely difficult process in and of itself. It is not recommended to use it on a regular basis. The defense of insanity should only be invoked in exceptional circumstances. Even if the final decision is left to the discretion of the court, public laws must be administered in a fair and consistent manner.

As a result, the law of insanity has evolved into a tool that criminals might use to avoid facing legal consequences. The Indian courts have consistently urged for a more progressive interpretation of the term “unsoundness of mind” in the Penal Code in light of recent medical advances, particularly in psychiatry.

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