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FROM MADNESS TO MENS REA: UNDERSTANDING CASES AND LEGAL STATUES ON "LEGAL INSANITY, BATTERED WOMEN SYNDROME, POST PARTUM PSYCHOSIS"

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Abstract

This research article aims to explore the underlying principles of legal standards for insanity in criminal trials by analysing the constitutional provisions across jurisdictions. Primarily drawing conclusions to compare the same with existing Indian provisions for dealing with defence of insanity. The research specifically opens a new perspective on the ambit of criminal responsibility on matters relating to spousal homicide, infanticide/ filicide committed by women suffering from Battering women syndrome and Post Partum Psychosis respectively. The Research Methodology integrates exploratory and doctrinal research paradigm. The authors aim to provide valuable insights on defence of insanity sharing areas of lacunae, ambiguity across the globe. With a participatory tenor, they proffer on incorporating legal pluralism, legal transplants and interdisciplinary trial approach on such matters crescendoing Humans Rights and Mental Health Activism in Criminal Law.

Keywords: Legal Insanity, Defence, Battering Women Syndrome, Post Partum Psychosis, Therapeutic Jurisprudence

Introduction

Motus Animi una Mente Insana- emotions and states of mind, in an insane mind.

'Motus Animi' in Latin means the various phases or stages of a human mind and the associated emotions, whereas *'Una Menta Insana'* shares the idea of an insane mind. The word *'legal insanity'* comprises of two separate terms – *legal* and *insanity*, which shares a complex and multifaceted concept of intertwining *Law* with *Psychiatry*, the latter specifically with *madness*. This term *legal insanity* holds a distinct difference from that of *medical insanity* (Math, Kumar, and Moirangthem, 2015). With medical insanity, the person though bears a legitimate mental

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illness or mental disease but not adequate enough to be considered for allowing the defence for his culpable actions arising because of his mental illness. The plea of insanity in the law is generally allowed to serve as a defence for those individuals who due to the disease (ibid) or disorder state of their mind, or certain distinctive mental incapacity during the moment of the offense, was incapable of understanding the nature of his act (ibid) along with the attended wrongfulness.

Historical Perspectives

When the defense of legal insanity first came up, it was R *v. Arnold (1724)* (Bhutda, 2024) where, the accused Edward Arnold has been accused in trying to kill Lord Onslow, committing a capital offense. The defence on the motion seeking plea of insanity argued that the accused – Arnold was suffering from delusions of persecution and sorcery of Lord Onslow. Also, as per Howell, "*I can't be easy," Arnold reported; "he plagues me day and night. I can't eat or drink; if I eat anything, it comes out of my body. I am … as if they pumped the breath out of my body"* (Howell, vol. 16: 721). The prosecution stood firm on Arnold – *a wicked man* than *a madman (*Trials recorded in Howell, 1816–1828). Justice Tracy iterated upon the idea of punishment to deter other persons from wicked ideation/ actions, whereas its same for a madman who bore no design. Unruffled Arnold was found to be guilty and thus charged. However, King George II changed the sentence from death to life imprisonment. (Gary Watson, 2016).

In the case of *R. v. Ferrers*, 1760 (Simon, 2017) - the accused was hanged, which the verdict supposed to save England from Revolution. "*My lords, in some sense, every crime proceeds from insanity. All cruelty, all brutality, all revenge, all injustice, is insanity…. My lords, the opinion is right in philosophy, but dangerous in judicature"*. In this particular case, Ferrers had raised a defence of *occasional insanity of mind* with a generational nemesis of insanity, with a taint of madness running down the bloodline (Howell 1724; 1816). All the defences raised was howsoever unsuccessful, yet Blackstone found the entire English Jury trial of Earl Ferrer amongst the peer of the realm as nothing but a stately palisade (S McCalmont Hill, 1892).

As mentioned with these above two cases, the accused though claimed their *madness* as a plea of defence for their wrongful act, the Justice was served by verdicts of punishments. In both these two cases, the claimed conditions of mental insanity were sequestered while mental depravity in Arnold's case, and an act arising out of preternatural inebriation was considered

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for Ferrer. The defence in both these two cases were unsuccessful to satisfy the act as *an act of mad man* sufficient enough for exculpating the accused out from their individual criminal responsibility (William Blackstone Commentaries, 1966).

In the case of *R v. Hadfield (1800), 27 St. Tr. 128* bore a notable difference in the outcome of the verdict from the above-mentioned cases. Hadfield had a reason of belief that his execution would trigger the second coming (Simon, 2017). This belief had led him to attempt shooting at King George III. Thomas Erskine, the defence counsel, dissented him from the *total deprivation* standard while arguing on the fact that *the state of madness in a human mind also bears the capacity to distort the sense of his reasoning, rather than completely destroying it* (Foucault, 1988). He reiterated on the fact that Hadfield wasn't in his right state of mind but he was not completely mindless.

Unlike Arnold, who bore animosity towards his victim in his distorted state of mind, Hadfield's state of *madness* stemmed from otherwise war injuries that he had sustained. There were significant brain injuries, very much visible, making his act lack hostility. Hence, these two verdicts of Arnold and Hadfield bore different approach towards understanding mental disorder and its related criminal responsibilities. Though Hadfield's case made more sense but failed to share the broader reason of his exculpation. In this landmark case, *Insane Delusion Test* was laid down, while in the above two cases- *Good and Evil Test* also known as *Wild Beast Test* was laid down (Aswin KumarA| Legal Services). Firstly, insanity was distinguished from the capacity to discriminate between right and wrong, also acquittal on the basis of insanity does not need any kind of mental disability.

In the Trial of Bowler (1812), *1 Collinson Lunacy, 673*, the House of Lords established the third test, which measured one's ability to discriminate between right and wrong. As per Le Blanc, J., the jury's primary responsibility has to ascertain if the accused had a mental capacity to discriminate in-between right and wrong at the time of the occurrence of crime and whether they were suffering from delusions (Gupta 2021).

Daniel M'Naghten (spelled as *McNaughton*) is the subject of the contemporary insanity defense provisions within the trial of R v. Daniel McNaughten (1843), *Revised Reports Vol 59:8ER 718 (HL)*. In the open streets of London, he had unintentionally shot and murdered Robert Peel, the private secretary, the then-prime minister of England (Simon, 2017). M'Naghten was

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acquitted in this trial because it was determined that he was mentally incompetent. He received a "*Not Guilty by Reason of Insanity* (*NGRI*)" judgment. This created enough mayhem amongst the professionals and public for Queen Victoria was very much dismayed with this outcome, and urged the Judges to follow the law of the land. Ultimately, this acquittal resulted in the establishment of the jurisprudential standards regarding the allegations of insanity defence, pervasively known as M'Naghten's Rule. Also, this M'Naghten Rule was globally accepted for dealing with Lunatic criminal cases, including India in its The Indian Penal Code, 1860, Section 84, also, S. 22 of Bharatiya Nyaya Sanhita, 2023 which bears the direct reflection of the principles set in this particular rule.

When speaking about USA, most of its jurisdictions, , the M'Naghten Rule of 1882 had been accepted but as years passed by, many legislative reformations surrounding this grey area of insane mind and criminality was envisaged. In 1929, the District of Columbia supplemented this rule with the *irresistible impulse test,* as the judges in the matter of *Durham v. United States, (1954), 214 F.2d.862* found M'Naghten Rules to be too lean. The "*Product Test rule* was introduced: *an accused not held criminally responsible, if their unlawful act is the product of some mental disease or defect"* (Wm & Mary, 1968).

Theoretical Perspectives

When discussing on the topic of legal insanity, this is not only a complex legal domain but also highly contentious. A significant difference lies between medical insanity from that of legal insanity (Wm & Mary, 1968). While medical insanity is a purely psychiatric condition, this doesn't necessarily satisfy all the existing criteria for legal insanity (Wm & Mary, 1968). The later refers to the time and the state of mind when the act was done, specifically. That at that single point of time, the accused claiming the plea of insanity needs to prove that he was bearing certain mental incapacity or was afflicted by some form of disease of the mind (Fanning, 2017). Also, his getting involved directly with the wrongful act was due to the existing mental disease (Ghiasi, Azhar, and Singh, 2023), making him unable to differentiate right from wrong, sufficient enough to be considered as legally insane (Fanning, 2017).

As on the jurisprudential perspective, the concept of legal insanity first evolves from the M'Naghten's Rules (Fanning, 2017), however, it shares deeper intricacies with the idea of legal positivism, legal realism, abiding even through the precepts of natural law theory. Modern interpretations of legal insanity in 20th century begins with the American Law Institute's Model

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Penal Code Test [ALI-MPC]. (Paul H. Robbinson and Markus D. Dubber, 2007). This particular is focused more on legal realism and emphasizes the need to behold philosophies from therapeutic jurisprudence.

However, when determining the Constitutionality of Principles, involving plea of insanity defence, the same must align with fundamental rights like due process, fair trial and protection from arbitrary punishment. Also, to prevaricate, the same need not delude the importance of sense of Justice and public safety, while allowing such defence. Alongside, confederacy of Human Rights particularly speaking about human dignity, autonomy and equal protection under the law needs to be put forth on the dais. Here, dealing with the plea of insanity in criminal trials, the same needs to be examined very much with the predominant theory of criminal responsibility *vis – Actus Reus* (guilty act), and *Mens Rea* (Guilty Mind)- *Actus Reus Non Facit Reum Nisi Mens Sit Re*- translating into -*an act in itself doesn't necessarily make a person guilty unless the mind is also equally guilty*. (Texas law Review, 2016).

The same also attracts various theories of punishment- considering the decrease of recidivism as an outcome of rehabilitation or retribution, taken into account a better utilitarian approach (Ghiasi, Azhar, and Singh, 2023). Alongside, the jury and the judge must dole out the profundity in the fine line incongruity between full insanity and diminished responsibility as defence strategies. The success in the defence typically negotiates on the expert testimony, wherein the defence must move scrupulously to exude the degree of criminal responsibility involved based on the weight of evidence (Fanning, 2017). It is during the primitive stages since it is the responsibility for the defence, but once clearly asserted, the onus shall shift to the prosecution. Another aspect can be proportional sentencing, which is founded on utilitarianism, balancing the rights in the mentally ill offenders with public safety, rendering a decision that needs to be taken into consideration (Ghiasi, Azhar, and Singh, 2023). Sentencing process must not move towards an automatic acquittal or even automatic conviction.

The idea behind Diminished Responsibility is that, there lies the primary concern with respect to the volitional aspect as per the Section 2(1) in the Homicide Act of 1957, as modified by Section 52, in legal Defense Coroners & Justice Act of 2009, acknowledging the impaired control of actions of the defendant in the United Kingdom. This gives birth to the concept of Affirmative Defence, heavily practised in USA, where the defendant conceded on the commission of the act, but at the same time asserts a lack of full criminal responsibility as such

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volitional incapacity (Gordon, 1959, p. 453) likely to arose from the unstable mental condition. In this type of cases, there always exits a presumption of sanity on the onset of trial. The standard of proof – *"As a result, Lord Deas' direction in Dingwall was 'less remarkable' than it would have been in England"-ref.* Walker Crime and Insanity in England, Vol (1), P. 144., demands the principle of preponderance of evidence, meaning that it is more likely than not the accused was legally insane (Kennefick, 2011). This is in contra to the higher threshold of beyond all reasonable doubts. Thus, this balance of probabilities demands a claim of more than 50% chance of likely to be true, reinforcing on the fact of qualification for the accused being exonerated from insanity (Kennefick, 2011).

Background of the study

The authors choose to highlight two mental health conditions of women in this article- Battering Women Syndrome [BWS] and Post Partem Psychosis [PPP].

The term *Battering Women Syndrome* has propounded by Dr. Lenore Edna Walker[3], an American clinical psychologist, in the 1970s, in United States. The same also found immense recognition in US & Canada in 1990, United kingdom and Australia (Queensland) in 1991 (Meszaros et al., 2011). This was aimed to assist in understanding the mental dilemma of the woman accused of spousal homicide, choosing to kill her abusive spouse when ostensively she could have escaped in the first place (Harper, 1980). Walker had conducted interviews with 435 domestic abuse victims in Colorado between 1978 and 1981, she explored two key theories: her own *Walker Cycle Theory of Battering* and Martin Seligman's *Learned Helplessness Theory.* The three phases in the *Walker Cycle – tension-building, battering, honeymoon phase,* where a battered women had caught in the turmoil of these phases, she eventually becomes passive, feeling incapable to escape (Pandey et al., 2022). Ultimately, some resort to killing their abusive partners as their only perceived means over the individual's survival. The New Jersey SC ruled in *State v. Kelly, 97 N.J. 178; 478 A.2d 364,* had iterated that prolonged abuse can eventually paralyze victims mentally, impairing their ability to control their actions. Also, the socioeconomic and cultural circumstances significantly influence woman's power to flee out of such relationship (Cornia, 1997).

Here, the defendants were allowed to adduce evidences through expert witnesses to substantiate

[3] Rebecca D. Cornia, Current Use of Battered Woman Syndrome: Institutionalization of Negative Stereotypes About Women, 8 ucla women's l.J. 99, 101 (1997); lenore e. walker,

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on the reasonableness of their actions as a battered woman. Behavioral analysts often term this as *learned helplessness* of these woman. In India, however, only three cases are existing (Aishwarya, 2021) – *Manju Lakra v. State of Assam, (2013), S.C.C. OnLine Gau. 207*; *Amutha v. State, 2014 (2) M.W.N. (Cr.) 605*, *State v. Hari Prashad, 2016, 228 D.L.T. 1 (D.B.)*, where such considerations are taken into account. Over the time, a victim woman suffering from intimate partner violence gets her autonomy deteriorated, which keeps her afraid of making choices or independent decisions. The coercive control from the abusive spouse tends to diminish the sense of agency of the woman, making her feel incapacitated of making any decision (Medarametla, 2017). This also tends to weaken her self-esteem, and ability to seek independence. This violent-coercive dynamics is often reinforced by the exiting societal norms portraying violence as a legitimate means of conflict resolution between intimate partners (Aishwarya, 2021).

While speaking about Post Partem Mood disorders, it is an umbrella term. This includes Post Partem Blues, Post Partem Psychosis and Post Partem Depression (Michael O'hara, 1995). Here, they highlight the correlation of Post Partem Psychosis and the related insanity defence. However, precisely speaking, Post Partem Psychosis is the most severe of these three, and incapacitating the mother to decide anything of her own, and requiring hospitalization (ibid.). PPP is a disorder that happens to new mothers and is definitely not an outcome of their own choice. It happens as a shadowed reality- a state of mind which they reach during a particular phase, very much unknown to them and the entire world. Such of a phase is loud enough to fracture the psyche of these women, who couldn't heal on their own.

In the United States, cases pertaining to mothers who murder their child often ends in different outcomes- can both lead to acquittal or conviction. The authors predominantly focus on the critical aspect on whether the defendant in this case can plead insanity defence or not, and how much the same is considered in the court of law. As per M'Naghten Rules and Durham Rules leading to formation of Model Penal Code (American Law Institute), its most important determining factor is whether the accused was mentally sound enough during the commission of such criminal acts. Here, perspicuous that *Time* is the first and most important determining factor while considering insanity defence, but *the idea of Time* is of discrete nature. The second important factor in this case is the *State of Mind* of being diseased, or under huge delirium or bears certain degree of incapacity, or affected by severe psychiatric ailments. This is however, which is supposed to be in a continuum state and it is not necessary the accused shall show

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persistent lunacy traits or behaviors before or during or after the commission of the wrongful act (ibid). Both these factors – time and state of mind highlights on the fact - whether on the day of the wrongful event, and at that particular time, the accused woman was able to understand the nature of her own actions. Another allied aspect to this is also, whether the accused woman could or could not control her behaviors as a result of certain mental incapacity or disorder in her mind or irresistible impulse.

Review on landmark cases on Legal Insanity, BWS and PPP

The authors now brief an initial understanding of the concept from various landmark cases mainly selecting jurisdictions like India, United Kingdom and United States of America.

Indian cases

In *Surendra Mishra v. State of Jharkhand (2011), AIR 2011, Supreme Court 627,* the Indian Supreme Court reaffirmed the importance of the burden of proof & shifting of the weight of proof in cases involving legal insanity. It stated that the proof of the legal insanity initially lies on the defendant and demands a strong evidence for establishment. However, the prosecution too bears the responsibility to establish the accused's guilt beyond a reasonable doubt, by disproving his lunacy. It has also been made very clear in this case that having a mental illness does not automatically absolve one from criminal guilt.

In *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat (1964), 1964 AIR 1563, 1964 SCR (7) 361,* the significance on the accused's mens rea (*criminal intent*) was examined. Given that it implied that the accused brought up the defense of insanity, happens to be a historic case. The prosecution must prove the accused's criminal intent beyond any reasonable doubt. During this case in *Hari Singh Gond v. State of Madhya Pradesh (2008), AIR 2009 Supreme Court 31*, the SC reaffirmed that a court is only concerned with legal insanity, citing a different level of distinction between medical or legal insanity.

In the case of *Prakash Nayi @Sen v. State of Goa (2023), Criminal Appeal NO. 2010 OF 2010,* the Apex reaffirmed on Section 84 of the IPC, 1860 of the accused’s incapacity resulting from mental instability to recognize if their behaviors are right or wrong. Additionally, the court regarded its preponderance of probabilities and time as a critical factor in determining the defense of legal insanity giving the circumstantial evidence, before, after and during the event on the behaviors of the accused a determining factor for him to claim as being legally insane.

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The matter of *Saraswati Mahadeo Jadyal v. State of Maharashtra, 1994(3) BOMCR 79*, the accused woman had killed two of her infants on separate occasions, and she was found to be extremely traumatized under an age long severe level of domestic violence from her drunkard husband. She was allowed to claim a defence of insanity under Section 84 of IPC, 1860. In the matter of *Sumitra Shriram v. State of Maharashtra, 1991 CRILJ 1631*, the accused woman also had killed her two infants by throwing them into well, later tried to end her own life to escape the cycle of severe domestic violence from her husband. She was also allowed to claim defence of insanity u/s 84 of IPC, 1860.

United Kingdom

The defendant in *R v. Byrne (1960), 2 QB 396*, was first found guilty of murder; however, his conviction was reversed on appeal due to reduced culpability. This case made clear how an abnormality of mind results in a mental disorder or an incapacity which might occur for any otherwise mental illness or injury. The defendant in *R v. Tandy (1989), 1 WLR 350*, killed her daughter while intoxicated and was later found guilty. The court ruled that voluntary intoxication cannot prove diminished responsibility until its alcoholism has resulted in some illness or mental disability, thus she filed an appeal based on the theory of diminished responsibility.

In the matter of *R v. Windle (1952), 2 QB 82*, the court held that even though a person suffers from mental illness, the same may not be sufficient enough to delude his sense of right or wrong. These individuals suffering from mental illness may not succeed in achieving a defence of insanity, if they were aware that their actions happen to be wrong at the first place. The defendant in *R v. Golds (2016), UKSC 61*, was convicted of murder & appealed under the grounds of diminished responsibility, but it was denied. The case established the clarification on substantial impairment with that of being more than trivial or minimal nature of impairment in dealing with mental incapacity or disease of the mind.

The defendant in *R v. Kemp (1957), 1 QB 399*, was found guilty but insane after being accused of grievous bodily harm. Judge Devlin J. emphasized distinguishing between mental and physical illnesses which affect mental health, regardless of whether the mental illness was curable, incurable, permanent, or temporary.

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United States of America

In the matter of *Clark v. Arizona (2006), 548 U.S. 735,* unearthed the state's requirement that the defendant still bears the burden on proof, but upholding its numerous stringent requirements on the defense of insanity. It was resolved to institutionalize acquitted defendants due to insanity in the case of *Jones v. United States (1983), 463 U.S. 354,* even if the level of proof for insanity is less than the preponderance of the evidence. In the case of *Ford v. Wainwright (1986), 477 US 399,* the SC reiterated on the constitutional protections guaranteed to individuals who claim defence of insanity, and stated that execution of them is unconstitutional if they happen to have been mentally ill when they were executed.

Following John Hickley Jr.'s attempt to kill President Ronald Reagan, the IDRA heavily reinforced the use of the defense of insanity and tightened the requirements for establishing insanity in the Hinckley Jr. case, *525 F. Supp. 1342 (D.D.C. 1981).* The US Supreme Court heard the case of *Kahler v. Kansas (2020), 140 S. Ct. 1021*; *206 L. Ed. 2d 312* had found the limiting nature of insanity defence in Kansas law, and not finding it to be anyway ultravires. However, Justice Breyer giving a dissenting opinion, argued the traditional M'Naghten rules' of assessing such should be progressed. In the case of *Dr. P, Patient of Oliver Sacks (Oliver Sacks, 2006),* when men's rea is absent, the crucial component in crime, no separate affirmative defence is necessary.

According to the ruling in *Parsons v. State (1887); 81 Ala 577,* a defendant considered that an insane loses the ability to make decisions between good and evil since their free agency is eliminated. *State v. Delling, 267 P 3d 709, 721,* proved that the accused had paranoid schizophrenia, and therefore, misguided self-defense constituted an affirmative defense (Idaho, 2011).

In the case of *Anfinson v. State* (2008), Docket-No. 06-0076, Supreme Court of Iowa, the defendant was found guilty of second-degree murder for drowning her infant during her alleged postpartum psychotic (PPP) episode, which her defence attorney failed to substantiate with evidence. This very much underscore the consequence of not recognizing PPP as a distinct mental illness diagnosis eligible for plea of insanity. She received a 50-year prison sentence.

In *Andrea Yates v. State of Texas (2005), 171 S.W.3d 215, (Tex. App. 2005),* similar to above, she was convicted in her first trial for killing 5 of her infant children by drowning. During this

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incident, she was suffering from severe depression and postpartum psychosis, where she was believing that such an act will save all her children from going to hell, like her dead father. She was hospitalized multiple times before this incident too. She was however acquitted in the second trial happened in Texas. The American law doesn't allow further prosecution to appeal against acquittal. If she had been tried in any of the four US states- *Kansas, Montana, Idaho, Utah*- with the mens rea version of affirmative defence, she wouldn't be allowed to adduce evidence of her psychosis, as a plea of insanity defence (Mary Greene and Alaska Court System eds, 2008).

Conclusion

This research thus invigorates the constitutionality in the defense of insanity, which reflects the customs of law & current practices in the selected jurisdictions. The authors thus aim to traverse around finding the reprehensible current legal practises not guaranteeing apt rights to women accused of homicide under the influence of BWS and that of infanticide/ filicide under PPP. The article shares the idea that India as well as United Kingdom is presently adopting quiet a narrow approach to deal with cases of legal insanity. They find that at present India shares a cliché idea to consider cases of BWS and PPP under the general umbrella of insanity defence. This literature review also unveils about the stance of United States as to offering broader frameworks while facing severe restrictions for use of plea of legal insanity post Federal reforms.

The research fosters the idea on balancing rights and public safety. As herein the legal systems are often marred by the idea of curtailing the fundamental rights of the mentally ill individuals in order to foster public safety and justice in general. Specifically speaking about the Jurors' Trial System, who often finds reluctant to accept or allow the insanity defence as this seems to be considered as faulty on the notion of being an easy escape from culpability. The authors find huge inconsistencies in verdict where mostly retribution happens to override rehabilitation. They intend to find out what truly seems to be helpful in such matters – especially with BWS and PPP cases, by checking out on the statistics of recidivism by inhabitants from prison versus mental asylum.

Conclusively speaking, this article expropriates the notion on how the defendants have to bear the burden of proving their insanity as many jurisdictions so selected, while standards of such vary with India and United Kingdom. The later countries incorporate the legal principle of

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balance of probabilities while floating the onus of proof from across the parties. Also, it is made clear by the higher standards used in United States about the clear and convincing nature of evidence used at the federal level, giving the Juror's the final leverage to decide on the criminal responsibility of the accused. However, it is seen the difference in Federal laws on dealing with mental illness affecting criminal liability. Specifically, speaking on women accused of homicide, infanticide/ filicide due to them suffering from BWS and PPP, are highly inconsistent. The authors try to find the complex interplay on how outcomes of these cases shall ensure fairness to mentally ill defendants.

The authors find out the reflection of the insanity defence tends to reflect the nuptial bond between the legal doctrines of responsibility, with the constitutional protections. This also evolves into a generic insight on the exiting mental health system, related medico-legal standards and insights into related domains of psychiatry. The same seems to stems from the idea of Justice, fairness and public safety usurping the principles used in M' Naghten's Rules, Durham's Rule and various other tests used in Model Penal Code. They proffer that the defenses incorporated in legal insanity must ensure humane treatment while aiming legal protections for mentally ill defendants, aligned with contemporary legal and psychiatric developments.

References

1. Cornia, R.D. (1997) "Current Use of Battered Woman Syndrome: Institutionalization of Negative Stereotypes about Women". *UCLA Women S Law Journal* [online] 8 (1). available from https://doi.org/10.5070/l381017687
2. Criminal Responsibility - The Durham Rule - Washington v. United States, __ F.2d __ (D.C. Cir. 1967) (n.d.) available from <https://scholarship.law.wm.edu/wmlr/vol9/iss4/19/>
3. Deb A, (2021) "Battered Woman Syndrome: Prospect of Situating It Within Criminal Law in India. *BRICS Law Journal*;8(4):103-135. https://doi.org/10.21684/2412-2343-2021-8-4-103-135
4. Fanning, J. (2017) "Mental Capacity as a Concept in Negligence: Against an Insanity Defence". *Psychiatry Psychology and Law* [online] 1–21. available from <https://pmc.ncbi.nlm.nih.gov/articles/PMC6820055/>
5. Foucault, M. (1988) *Madness and Civilization: A History of Insanity in the Age of Reason* [online] trans. by Richard Howard. available from

<https://monoskop.org/images/1/14/Foucault_Michel_Madness_and_Civilization_A_History_of_Insanity_in_the_Age_of_Reason.pdf>

6. Gary Watson (2016) The Insanity Defense | [online] available from <https://lawexplores.com/the-insanity-defense/> [16 April 2025]
7. Gerald H. Gordon (2005) *The Criminal Law of Scotland*. 3rd Ed Volume. ed. by Michael G.A. Christie. vol. 1 incl supplement. W. Green
8. Ghiasi, N., Azhar, Y., and Singh, J. (2023) *Psychiatric Illness and Criminality* [online] available from <https://www.ncbi.nlm.nih.gov/books/NBK537064/>
9. Gupta, R. (2021) Judicial Interpretation of Unsoundness of Mind [online] vol. 1. available from <https://www.juscorpus.com/wp-content/uploads/2021/06/2.-Rakshit-Gupta-AS.pdf>
10. Harshika Bhutda (2024) "*Insanity As A Defence: Exemption From Offense And Its Punishment* » Lawful Legal". [10 February 2024] available from <https://lawfullegal.in/insanity-as-a-defence-exemption-from-offense-and-its-punishment/#:~:text=R%20v.,accused%20had%20a%20mental%20illness.>
11. Judicial Approach on Plea of Insanity in India | Legal Service India - Law Articles - Legal Resources (n.d.) available from <https://www.legalserviceindia.com/legal/legal/article-3098-judicial-approach-on-plea-of-insanity-in-india.html>
12. Kennefick, L.K.M. (2011) *Diminished Responsibility in Ireland: Historical Reflections on the Doctrine and Present-Day Analysis of the Law* [online] available from <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1935564>
13. Kinports, Kit (2004) "So Much Activity, So Little Change: A Reply to the Critics of Battered Women's SelfDefense," Saint Louis University Public Law Review: Vol. 23: No. 1 , Article 9. Available at: https://scholarship.law.slu.edu/plr/vol23/iss1/9
14. Math, S.B., Kumar, C.N., and Moirangthem, S. (2015b) "Insanity Defense: Past, Present, and Future". *Indian Journal of Psychological Medicine* [online] 37 (4), 381–387. available from https://pmc.ncbi.nlm.nih.gov/articles/PMC4676201/
15. Medarametla, K. (2017) *Battered Women: The Gendered Notion Of Defences Available* [online] available from <https://docs.manupatra.in/newsline/articles/Upload/F1D66902-8FAE-4580-BDB1-479D1768B695.pdf>
16. Meszaros, J., University of Pennsylvania, University of Maryland, Dr. Rita Balice-Gordon, Sue Osthoff, Anita Allen, Martha Farah, Misha Isaak, National Clearinghouse

 ISSN: 2582-6433

for the Defense of Battered Women, and Yale Journal of Law and Feminism (2011) *Achieving Peace of Mind: The Benefits of Neurobiological Evidence for Battered Women Defendants* [online] vol. 23. available from <https://core.ac.uk/download/pdf/72837855.pdf>

17. O'Hara, M.W. (1995) *Postpartum Depression* [online] available from https://doi.org/10.1007/978-1-4613-8416-8
18. Pandey, A., Sharma, U.R., Student, LL.M. (Constitution & Criminal Laws), National Law University, Delhi, and Assistant Professor (Senior Scale), School of Law, University of Petroleum & Energy Studies, Dehradun (Uttarakhand) (n.d.) *A 'Victim' Or A 'Perpetrator'? – Relooking The Law Of Homicide In India From The Eyes Of Battered Women* [online] available from <https://ili.ac.in/pdf/2._Udit_Raj_Sharma__F_.pdf>
19. Paul H. Robbinson and Markus D. Dubber, 2007 "*The American Model Penal Code: A Brief Overview*" (2007) *New Criminal Law Review* [online] 10 (3). available from <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1130&context=faculty_scholarship>
20. S McCalmont Hill "Earl Ferrers" Belgravia: a London magazine (England, June 1892).
21. Sacks, Oliver W., 2006, *The man who mistook his wife for a hat and other clinical tales,* 243 pages, ISBN 0684853949, 9780684853949
22. Simon Barber, *R V Earl Ferrers (1760): The Trial That Saved England From Revolution?* (September 1, 2017). Available at SSRN: https://ssrn.com/abstract=3414681 or http://dx.doi.org/10.2139/ssrn.3414681
23. T. B. Howell "Trial of Edward Arnold for Felony (1724)" in A Complete Collection of State Trials (1816)
24. Texas Law Review *Presents The 2016 Multi-Journal Transfer Student Write-On Competition* (2016) available from <https://texaslawreview.org/wp-content/uploads/2016/07/2016-Transfer-Write-On.pdf>
25. William Blackstone Commentaries on the Laws of England: Book the Fourth (Clarendon Press, Oxford, 1966)