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# **MCNAUGHTAN RULES AND PROVISIONS IN** **THE INDIAN PENAL CODE, 1860 AND ITS** **RAMIFICATIONS ON THE SOCIETY**

**By: Ayushi Kumari**

## INTRODUCTION

A person's mind mostly remains under his control, which helps him control his activity as well. But there are circumstances when his brain no longer remains in his control, and thus, neither are his actions. For a normal life activity, it would be no different but in law it can turn out to be a whole another situation, if that activity is termed as 'crime'. However, when a person commits a crime wherein he remains under no control to neither discern what he is doing is wrong nor differentiate what he is doing is lawful or not, he can claim insanity as a defence. In this situation, the defendant bears the burden of proving what was his mental condition at the time when he committed the crime. In the case of *Bratty v. Attorney-General for Northern Ireland*<sup>1</sup>, Lord Denning has stated that "the prosecution can introduce evidence of insanity whenever the defendant raises the issue of his mental state."

Any act that is considered as a criminal act requires two elements: Actus Reus (criminal act) and Mens Rea (guilty mind) to determine whether the accused has committed any criminal liability. One of the most well-known defences in law is the defence of insanity, which is used to justify behaviour that would otherwise be illegal.

The adage "Actus non facit reum, nisi mens sit rea" is the foundation of the law of insanity, which states that unless a person has a guilty mind, he can not be proven guilty. When an insane person commits a crime as a result of his insanity, he lacks the mental capacity to recognise that what he is doing is against the law. As a result, the mad person is in a position that is far worse than that of a child in such a predicament.

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<sup>1</sup> *Bratty v. Attorney-General for Northern Ireland* 1963 AC 386.

## ORIGIN

The case of Daniel M'Naghten prompted the creation of this rule. Daniel Mc Naughten was a wood-turner from Glasgow who shot and killed Edward Drummond in 1843, mistaking him for British Prime Minister Sir Robert Peel. Mc Naughten later on claimed that he was being victimized by the Tories and he also believed that he was being ill-treated by the political party, demonstrating that he was hallucinating and that he was not under control of his senses.

Furthermore, an evidence was shown to indicate that he had been completely delusional on the matter, for quite some time

The House of Lords, in this case set up a group of judges, who would come up with hypothetical questions about the plea of insanity as a defence, and the panel came up with responses of those questions that further constituted the M'Naghten rule's principles. In common law jurisdiction, the M'Naghten criteria established a basic test for determining the defendant's mental state and criminal responsibility.

This Mc Naughten decision created a historic precedent in the area of insanity defence law. Even in India, Section 84 of Indian Penal Code, also known as the insanity defence statute, is wholly based on the Mc Naughten standards. There have been no revisions since it was drafted.

In the case of *Amrit Bhushan v. Union of India*<sup>2</sup> the Apex Court determined that the M'Naghten guidelines define and explain the term "insanity" which is used by the accused as a defence, but Section 84 describes the term "unsound mind" which is tantamount to insanity. This was a step taken by the drafters of the Indian Penal Code to broaden the definition of "unstable mind" and to recognise "non-compos mends" (not in one's right mind) as a defence to insanity under the criminal code.

Furthermore, in the case of *Surendra Mishra v. State of Jharkhand*<sup>3</sup> the court, inter alia stated that the term "unsoundness of mind" is not defined in the IPC and is often used interchangeably with the term "insanity."

## PRINCIPLE

In the Daniel M'Naghten's case<sup>4</sup> Lord Chief Justice Tindal while giving his verdict of "non-guilty", gave the reason that the accused person in the case was insane. And also stated that the question which needs to be determined while considering whether a person is insane or not is

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<sup>2</sup> *Amrit Bhushan v. Union of India* 1977 AIR 608.

<sup>3</sup> *Sudhakaran v State of Kerala*. 2010 (10) SCC 582.

<sup>4</sup> *McDonald v United States* (1967) 312 F.2d 84 7, <http://www.bailii.org/uk/cases/UKHL/1843/J16.html>

whether he had or did not have the ability to use his mind at the time when the act in the case was committed that would allow him to comprehend that he was committing a wrongful act or an evil deed. If in that case, it was believed that the person was not sensible at the time when he committed the act, that he is doing something which is both ethically and legally unacceptable, then he would be entitled to a favourable verdict wherein he can be called as an insane person, whereas on the other hand, if it was believed that he was in a sound state of mind at the time he committed the act, then the verdict must be against the accused person.

Medical specialists in M'Naghten's case contended that the accused lacked the needed 'Mens Rea' for the murder that he committed, and that while committing the crime, he was insensible of his conduct as he was delusional.

The goal of this law is to protect those who are unable to make reasonable decisions from criminal liability, not to exempt all mentally handicapped people.

Furthermore, the legal adage "Non compos mentis" is frequently used to refer to someone who is mentally ill. The phrase literally means "not of sound mind." In terms of nature, mental illness can be of two types:

The first is Permanent unsoundness of mind which is a mental illness that lasts for a long time. It occurs when a person is permanently bereft of his or her thinking capacities and mental faculties as a result of any psychological or mental disorder.

The second is Temporary insanity of the mind. In this, a person's motor skills and reasoning abilities are briefly impaired in a scenario of transitory mental unsoundness. This form of mental instability can be caused by a variety of factors, including intoxication, drug use, and so on.

#### INGREDIENTS

The Rules are made up of three main components<sup>5</sup>. The first is the mental condition ('defect of reason from mental disorder') that must have existed at the time when the person committed the crime in order for the defence to be viable. The second and third ingredients are regarding the repercussions that must follow from this mental state in order for the individual to be qualified for the defence.

As section 84 of Indian Penal Code incorporates McNaughton Rules, in simple terms the

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<sup>5</sup> Peter Shea, M'Naghten Revisited - Back to the Future? (The Mental Illness Defence A Psychiatric Perspective), <http://www5.austlii.edu.au/au/journals/CICrimJust/2001/6.pdf>

ingredients can be said to include<sup>6</sup>:

1. He was insane or was suffering from mental illness at the moment of the crime, not just before to or following it.
2. Because of his insanity, the accused was unable to understand the nature of his actions, i.e., what he is doing is wrong,
3. Also, he is incapable of knowing whether he was doing something that was truly illegal or against the law.

#### LEGAL AND MEDICAL INSANITY:

In order to completely understand the application of section 84, it is imperative to know the difference between what is considered legal insanity and what is considered medical insanity. The differences are as follows:

1. It is probably correct to say that every man is insane at the time of committing a criminal act; that is, he is not in a sound, healthy, normal state and thus requires treatment; however, a man must be held to be the same from a legal standpoint so long as he is aware that the act he is committing is wrong or against the law. Furthermore, persons who are diagnosed as mad by medical study do not always lose contact with their feelings and experiences, such as hope, fear, dissatisfaction, ambition, vengeance, and so on. Fear may influence them, and threats may serve as a deterrent. If there were more powerful men around, such insane people would stop from committing acts of violence or causing harm.
2. To establish the defence of insanity, the mental condition mentioned in the section must have existed at the time the crime was committed. If a man is judged to be mad six or seven hours after committing an offence, there is no reason to believe he was insane while he committed the crime. Only unsoundness of mind at the key time of the conduct of the act is significant for the purposes of legal insanity. A individual could be insane at any time, according to medical standards.
3. A medical professional recognises that a delusion may arise suddenly in the mind, undetected by the accused's previous conduct or conversation, while a court of law typically seeks clear and convincing evidence of mental delusion or intellectual aberration

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<sup>6</sup> T.V. Asokan, The insanity defence: Related issues, 2016 December, Indian J Psychiatry, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5282615/> (last visited September 28, 2021 at 09:14 PM).

existing prior to or at the time of the crime's commission. As a result, a doctor's tests for insanity are different from those employed by a lawyer. He assumes insanity based on the lack of a motivation for any attempt to flee and the absence of any accomplice. It makes no difference whether or not the person was aware of the offence. The legal test for the existence of insanity, on the other hand, is conduct. A lawyer defines lunacy as "behaviour of a certain kind," but a medical defines it as "a specific sickness, one of the results of which is to cause such conduct."

4. The reason of an act is of primary relevance to a medical professional, although motive is not significant in diagnosing legal insanity.

There are a few case that brings out the difference between medical and legal insanity such examples include:

In the well-known case *Chajju vs. Emperor*<sup>7</sup>, in which the medical testimony of a gentleman of renown and unimpeachable voracity clearly benefitted the accused. Their evidence proved that the accused was mad because he was a man of perfect character, that he was unhappy, and that he did this highly rare and motiveless crime in a fit of melancholy. The court ruled that this evidence was more important than others. It shied away from the medical specialists' theoretical viewpoints, stating that "all the facts are unquestionably entitled to consideration." The crucial question for a court of law was whether the accused had the ability to recognise the nature of his act because owing to his insanity, or whether what he was doing was illegal.

The second case is of *Queen Empress vs. Laxman Dagdu*<sup>8</sup>, the accused used a hatchet to murder his small children. He had previously displayed no signs of craziness. He claimed he committed the crime because he was unwell and the children's cries irritated him. He went to sleep after killing them. He was said to be angry and sensitive to sound due to his fever, but it was not apparent that he was not in his mind during the commition of the crime. When questioned, he maintained a calm demeanour and made no attempt to hide his identity. He admitted his culpability completely, yet he showed no symptoms of remorse or regret. It was decided that because he was well aware of what he did, it can be concluded that he knew of his criminality, and therefore he was found guilty of murder. However, the judge concluded that there was no pre-mediation in this situation from a

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<sup>7</sup> *Chajju Mal v. Emperor*, 1909 SCC OnLine PCC 2 : 1910 Cri LJ 105.

<sup>8</sup> *Queen Empress vs. Laxman Dagdu* (1886) 10 ILR .Bom. 512.

medical standpoint. The accused's thought came to him suddenly, and he took no precautions, made no attempt to hide it, felt no grief, and committed the murder with no accomplice. Here the judge acknowledged that if the trial had been determined solely on the basis of medical evidence, the accused would have been acquitted, but it was compelled to adopt judicially recognised norms, thus it recommended the case for government clemency.

These instances show that the legal definition of insanity differs from the medical one, and that in many situations, a man who is of unsound mind in the opinion of medical specialists cannot be exonerated of criminal culpability.

#### WHAT HAPPENS IF THE DEFENCE UNDER SECTION 84, (THE DEFENCE OF INSANITY) SUCCEEDS?

When the plea of insanity is accepted as a defence and the individual is absolved of criminal liability, the court, on humanitarian grounds, sentences the crazy person to treatment in the benefit of society and to prevent future accidents. The penalty is awarded through the Criminal Procedure Insanity Act 1964 (section 5)<sup>9</sup>, which stipulates that the sentence is determined taking into consideration the fact and conditions of the act. The court issues a hospital order as well as a limitation order under the Mental Health Act,<sup>10</sup> and the Mental Health Act which restricts the defendant's rights. Depending on the requirement, the court has the power to grant a supervision order or an absolute discharge.

#### CRITICISM OF M'NAGHTEN RULE:

M'Naghten Rule has been criticized for various reasons. Some major reasons are as follows:

1. The principle underlying of the rules is the inability of a person to distinguish between what is correct and what is not. Such a person is said to be insane. However, there are also medical circumstances in which a person knows "what is right" but feels compelled to do wrong. When a person can't stop themselves from doing something bad, it's known as a "irresistible impulse."

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<sup>9</sup> Criminal Procedure (Insanity) Act 1964, No.84, 1964 (United Kingdom).

<sup>10</sup> The Mental Health Act (1983), §37, No. 20 of 1983.

People suffering from manias and paraphilias, for example.

2. The regulation has been criticised for giving the defendant an easy way out. If somebody suffers from a severe mental illness, he can easily avoid criminal accountability, regardless of how much this illness aided in the commission of the crime.

3. There have been quite a few situations where the definition of medical insanity does not concur with that of legal insanity.

4. It is also criticised since the M'Naghten rule only provides a legal definition of insanity and does not provide a medical one. If both are present, the M'Naghten rule will suffice.

5. The guideline does not define or define phrases such as temporary or permanent insanity. There could be a condition that is only transient and manifests itself at different times throughout a person's life.

6. The rule does not address whether a person's insanity or mental illness has an impact on the general population. The rule does not address whether or not it poses a threat to the public.

7. Furthermore, as pointed by professor Sheldon glueck, not knowing the “nature or quality” of the act or inability to know the difference between right and wrong, considered to be an exclusive symptom of mental disorder will be very difficult to define by the courts. Due to to the above reasons there have been several cases that have not come under the ambit of defence of insanity.

These include:

- That an accused is egotistical or irascible, with a faulty mentality, or that he was gloomy, irritable, and conceited. This was the case of Umar Khan v. Emperor.<sup>11</sup>
- That his intellect had been weakened by his bodily and mental problems, which had damaged his emotions and willpower. This was the case of Tola Ram v. Crown<sup>12</sup>

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<sup>11</sup> Umar Khan v. Emperor, 1931 SCC OnLine Lah 401.

<sup>12</sup> Tola Ram v. Crown, 1927 SCC OnLine Lah 324.

- That he had committed several bizarre behaviours in the past, including stealing Huggas from individuals who said it was terrible to smoke, tearing his clothes or hurling brickbats, and once thrashing his uncle. This was the case of Chandgi v. Emperor<sup>13</sup>
- The facts of the case of Sardara v. emperor, <sup>14</sup>that his behaviour was very queer, or that he appeared to be a little weak minded or of weak inhibitions.
- In the case of Raju Shetty v. State<sup>15</sup> the accused was known to be prone to fits both of insanity and epileptic ones. However there was so sign of irregular etiquette.
- That he was acting oddly or strangely before committing the crime; that he was unbalanced and excited, and that he had certain obsessions with Kali worship, and that he was saying that the Kali temple in the village should be electrified; and that he was found dancing around the corpse after the crime. Such was the case of Goverdhan v. UOI. <sup>16</sup>
- That he lectured before imaginary audiences on every conceivable subject under the sun for several hours together every day and thought himself to be a great poet of the ranks of Byron, Shelley and Wordsworth. This happened in the case of Bazlur Rahman v. Emperor.<sup>17</sup>
- The facts of the case of Koli Jeram v. Emperor, <sup>18</sup>that he smoked heavily, did not speak to others, and remained in a moody and pensive state previous to the offence, and that his behaviour was so chaotic and eccentric that exorcists were called to charm away his elements.
- That he used to talk incoherently, tear his clothes, strip naked in public, and besmear himself with faeces on occasion, and that the family had asked the deceased exorcist of evil spirits to remove the insanity by exorcism. This was the case of Lachman v. Emperor.<sup>19</sup>
- That he complained of headaches and used to speak to himself and was once seen eating postherds; and that the family had asked the deceased exorcist of evil spirits to remove the insanity by exorsist. Such was case of Queen-Empress vs Kader Nasyer Shah<sup>20</sup>

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<sup>13</sup> Chandgi v. Emperor, 1932 SCC OnLine Lah 41.

<sup>14</sup> Sardara v. Emperor, 1928 SCC OnLine Lah 607.

<sup>15</sup> Raju Shetty v. State, 1959 SCC OnLine Kar 81.

<sup>16</sup> Goverdhan v. Union of India, 1994 SCC OnLine P&H 1082.

<sup>17</sup> Bazlur Rahman v. Emperor , A.I.R. 1928 Cal. 1.

<sup>18</sup> State v. Koli Jeram Duda, 1954 SCC OnLine Guj 1.

<sup>19</sup> Lachman v. Emperor, AIR-1924 All. 413.

<sup>20</sup> Queen-Empress vs Kader Nasyer Shah, (1896) ILR 23 Cal 604.

- That his wife had an incestuous relationship with his father and that he had discovered them in a compromising position three or four days earlier and though he kept peace at the time<sup>21</sup>, he was driven to desperation by starvation or unemployment or that he had been disturbed and distressed by the shortage of clothes, rice, and fodder and he had complained of the difficult time he was going through.<sup>22</sup>

#### CONCLUSION:

The M'Naghten Rules were a comprehensive criminal liability principle that played a critical part in the widespread acceptance of insanity as a defence. The English Courts devised a number of tests to help determine the applicability and scope of these laws. The M'Naghten Rules' applicability differed from country to country, depending on how they approached their domestic laws. The rules were a typical test for accused who pleaded insanity, and these standards assisted the court in deciding whether the person's defence was truthful and plausible, allowing the court to determine the accused's criminal responsibility. However, over time there due a number of reason, the rules have not evolved to match the current times and hence have been criticised. The cases being left out due to the flaws in the rules have increased and thus the courts have started to view such cases without the application of the rules.

India, like many other countries, accepted the M'Naghten Rules, which created the foundation of Section 84 of the Indian Penal Code, which allows the defence of insanity to be utilised in criminal proceedings.

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<sup>21</sup> Muhammad Hussain v. Emperor, 1914 SCC OnLine Lah 208.

<sup>22</sup> Mabajjan Bibi v. Emperor, 1932 SCC OnLine Cal 39.