



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**



### **Megha Middha**

*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## Dr. Namita Jain



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpna

*Assistant professor of Law*

*Mrs.S.Kalpna, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and*

*learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# ANALYSIS OF INSANITY OF LAW

AUTHORED BY - RAUSHAN KUMAR

## **Abstract-:**

In criminal law, insanity is a condition of physical disability or mental disorder that relieves individuals of criminal responsibility for their conduct. Insanity tests used in law are not intended to be scientific descriptions of mental illness; rather, they are intended to identify individuals whose incapacity is of such a magnitude and extent that criminal responsibility should be denied on grounds of social expediency and justice. Various scientific methods of insanity have been proposed, none of which has been criticized. The law of criminal responsibility is based on the famous case of Daniel M'Naghten, which is also prevalent in India. "to establish a defense on the ground of insanity, it must be clearly shown that the party accused was acting under a mental disorder, such as schizophrenia, that he did not know the nature and quality of the act he was doing; or, if he did know it, that he was not doing what was wrong," the English courts said.

A statute, a disorder of mental health, or a mental disorder that relieves individuals of criminal responsibility for their conduct. Insanity tests used in law are not intended to be scientific descriptions of mental illness; rather, they are intended to identify individuals whose incapacity is of such a magnitude and extent that criminal responsibility should be denied on grounds of social expediency and justice. History & society: mental illness, diminished responsibility, and criminal responsibility. Several criminal theories of insanity have been proposed, none of which has escaped criticism. The law of criminal responsibility is based on the famous case of Daniel M'Naghten, which is also prevalent in India. "to establish a defense on the ground of insanity, it must be clearly shown that the party accused is laboring under a mental disorder, such as schizophrenia, that he did not know the nature and quality of the act he was doing; or, if he did know it, that he was not doing what was wrong," the English judge said. Critics argue that they promote an overintellectualized conception of mental illness that mirrors outmoded conceptions of human behavior. The laws have been chastised for failing to follow modern scientific principles, complicating the role of the therapist in giving expert testimony. Several states in the United States have adopted a procedure outlined by the American Law Institute's Model Penal Code,

as well as the majority of the federal courts at one time. This test provides a defense to a criminal charge if the accused lacks “substantial capacity” to recognize the criminality of his conduct or to conform his conduct to the requirements of law” at the time of the assault. It focuses on the volitional as well as the cognitive aspects of incapacity.

The main differences between the civil law of insanity and the common-law variant are procedural. The continental codes do not allow lay juries to rule on responsibility, but the english-speaking jurisdictions do. In some countries, including japan and england, a form of mental illness similar to insanity has been identified that may be taken into account in reducing punishment. On the grounds that responsibility requires the ability to make basic moral distinctions and the ability to adapt behavior to the laws' demands, insanity is deemed to be a waiver from responsibility. The insane should not be punished because they are not morally responsible and cannot be discouraged by the threat of criminal sanctions. Critics argue that the issue of responsibility is less important than the issue of how to identify and treat the disturbed individual.

### **Introduction-:**

The responsibility theory is in keeping with our most basic assumptions about human nature and dignity, as well as our everyday experience of guilt and innocence, blame and punishment. Punishing a person who is not responsible for the offence is a violation of india's fundamental human rights and fundamental rights. It also invokes the due process of law, if the individual is not in a position to defend himself in the court of law, invoking the principle of natural justice. The affirmative defense of legal insanity extends to this basic principle by exempting those criminally insecure offenders whose illness stripped them of a rational understanding of their conduct at the time of the offense. 1 therefore, it is generally accepted that incapacity to commit crimes exempts the individual from punishment. The laws of most civilized nations state this. In the recent past, however, several states in the united states (such as montana, idaho, kansas, and utah) have banned insanity defense. Medical, psychology, and law professionals from around the world are debating this issue.

### **Types of insanity**

Insanity types there are two types of insanity: legal and medical. The court of law is the only area of investigation for criminal insanity, which is defended by section 84, while medical insanity is

not to be taken into account by the court. Legal insanity refers to a situation in which a person does not comprehend the nature of the act he is doing. Although medical insanity can be of many forms, such as an abnormal behavior due to a poor brain function, or a deficit of intelligence, etc. A medical professional will treat this as insanity, but the court will not consider these as a valid defense under s.84 until it meets the criteria of legal insanity.

## **Historical perspective of insanity in India**

For ease of comprehension, the section 84 ipc can be broken into two main categories: the main one (medical condition of mental illness) and the minor one (loss of reasoning requirement). The individual must be suffering from a mental disorder at the time of the act, according to the main criteria (mental illness requirement). The individual is either incapable of knowing the purpose of the act, incapable of knowing his conduct is wrong, or incapable of knowing it is in violation of statute if the person meets the following criteria: Both the major (mental disorder) and the minor (loss of reason) criteria are considered legal insanity. Section 84 of the ipc clearly embodies a fundamental principle of criminal law, which is,

- (a) "actus non facit reum nisi mens sit rea" (an act does not constitute guilt unless done with a guilty intention) and
- (b) "furiosi nulla voluntas est" (a person with a mental disorder has no free will). 16 this means that an act does not constitute a crime unless it is done with a guilty intention called "mens rea."

Therefore section 84 ipc places no culpability on persons with mental illness because they have no rational thought or the necessary guilty intention.

## **Supreme court decision on insanity defense in india**

India's supreme court decision on insanity defense modern criminal law is based on the assumption that humans are morally responsible and not harm causing agents. To be held criminally accountable, two essential conditions must be established beyond reasonable doubt:

- (a) the individual committed the offence (actus reus)
- (b) in doing so, the individual engaged in his or her own free will, intentionally and for rational reasons (mens rea).

Psychiatrists may be required to assist the court in determining whether certain mental disorders impaired a person's ability to formulate the intent necessary to make him or her legally liable.

### **Burden of proof in insanity defense**

Proof of insanity defense is a heavy burden under law, every man is presumed to be fit and to have a sufficient degree of reason to justify his conduct, unless the contrary is proved. Any individual is presumed to know the resulting consequences of his conduct. In the same way, no one is required to know the rules. The defense does not have to establish these facts. The prosecution has always been the burden to prove the committing of an offense, and that never shifts. The defense must prove the same beyond a reasonable doubt. However, the accused would bear the burden of proving the existence of such circumstances (section 84 ipc) for insanity defense (section 105 of the evidence act), and the court would presume the absence thereof. The accused has to prove by presenting evidence to the court, including expert testimony, oral and other documentary evidence, hypotheses, assertions, admissions, or even the prosecution testimony, that he was incapable of knowing the cause of the offence or knowing that it was either wrong or contrary to law. The supreme court has ruled that the critical point in time for establishing unsoundness of mind is the moment when the crime is actually committed, and that the appellant is responsible for proving this. This court has ruled in dahyabhai chhaganbhai thakker versus state of gujarat that even if the accused was unable to prove conclusively that he was insane at the time he committed the offence, the evidence presented to the court could cast a serious doubt on the accused's mind, including mens rea, and in that case the accused will be able to be cleared on the grounds that the prosecution's general burden of proof was. Though the burden is on the accused, he is not required to prove the same beyond any reasonable doubt, but merely satisfy the preponderance of probabilities. He bears no greater responsibility for proof than a civil lawsuit.

### **Plea of insanity**

The accused bears the responsibility of proving his mental health; therefore, if the accused's lawyer or his family members or previous history of insanity is revealed, an honest investigating officer has the responsibility to perform a medical examination and present the evidence before the court; if this is not done, the accused will be in a heightened coma and the accused will be given the benefit of doubt. 19 therefore, the charge of insanity should be made during the probe

or during the appeal to the lower court, not during the appeal to the higher court.

## Mc Naughten Rule

In the case of *r v. daniel mc naughten*, the house of lords was drafted to defend insanity. In this case, mc naughten killed the prime minister of england's secretary, believing him to be the prime minister because he believes the prime minister is responsible for all his problems. So his secretary was killed by mistake while he attempted to murder the prime minister. Mcnaughten showed evidence of his mental health to the judge and pleaded insanity as the cause of his detention. His plea was accepted and he was found not guilty. This issue was discussed in the house of lords, and a set of rules was drafted down as the mc naughten rules, which were popularly known as the mc naughten rules, was enacted to determine the guilt of an insane individual.

## Conclusion

To sum up, the term insanity defense is a legal one, not a surgical one. Although a psychiatrist's opinion is factored in, the final decision to accept or reject the defense lies with the court the world over. Based on the defendant's reasoning ability under the circumstances of the offence.

## Reference:-

- (i) [www.britannica.com](http://www.britannica.com)
- (ii) [www.ncbi.nlm.nih.gov](http://www.ncbi.nlm.nih.gov)