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DIMINISHED RESPONSIBILITY IN INDIA: BEYOND THE WHITE AND BLACK OF GUILT AND INNOCENCE

AUTHORED BY – SUHANI RASTOGI & LAREINA LEO

ABSTRACT

The paper critically examines India's current legal framework on diminished responsibility and contends that, while they address the accused's mental state, the laws are ambiguous, susceptible to interpretation, and fail to account for all complexities of mental health when it comes to criminal culpability. We contrast foreign mental health legislation, the UK's Homicide Act, and the Nallathangal syndrome precedent in Madras. We explore how various legal frameworks provide more precise regulations for evaluation and an additional nuanced approach to reduced accountability. When proposing reforms, the paper recommends for explicit legal definitions and procedures, as well as the inclusion of expert opinions from mental health doctors, to give a more effective legal response to cases of reduced responsibility. To promote an equitable and just legal system in India, the study emphasizes the importance of raising awareness and revising legislation to reflect changing attitudes towards mental health.

Keywords – Diminished responsibility, Mental health, Criminal law, Nallathangal Syndrome, Homicide Act, Insanity as a defence

INTRODUCTION TO THE CONCEPT

The legal doctrine known as “diminished responsibility” recognizes the complex relationship that exists between criminal responsibility and mental health. This concept, which stems from the premise that not everyone can make logical decisions at all times, seeks to provide a more nuanced response to instances in which a person's mental health and disturbances may have influenced their responsibility for committing a crime.

In different legal countries, the idea of decreased capacity operates differently. It may either invalidate a specific element of the accused crime, so exonerating the offender from that

allegation. Alternatively, it may formally decrease the severity of the crime for which the accused can be found guilty and sentenced, even if all the formal requirements of the initially alleged offense were met.¹

Diminished responsibility permits a more sympathetic and less rigid assessment of an accused person's mental stability at the time of committing an offense, as opposed to enforcing a strict black-and-white picture of guilt or innocence. The complex dynamics at play in court proceedings involving diminished responsibility require a closer analysis due to the influence of cultural elements, pervasive stigmas, and societal biases.

CURRENT LEGAL LANDSCAPE

The term and concept of "Diminished Responsibility" has not been explicitly discussed or laid down in any of the sections of the Indian Penal Code (IPC). However, there exist provisions that address the frame of mind of the person at the time of committing the crime. It is important to consider these since they provide a groundwork for the discourse on Diminished responsibility in Indian law.

Under Section 300 of the IPC², which defines the ingredients and exceptions Culpable Homicide amounting to Murder, none of the exceptions discuss diminished responsibility. Instead, when the accused is of an unsound or abnormal state of mind at the time of commission of the offence, they must turn to Section 84³, which establishes a defence on the grounds of an unsound mind, absolving the person of liability under the IPC.⁴ Additionally, a person can also plead under Section 85 of the IPC, if they are intoxicated "against (their) will" or "without (their) knowledge".⁵ The IPC's rules are rather limited and do not fully deal with the nuances of mental health problems in relation to criminal liability. Diminished responsibility is not specifically recognized or defined by law as a defence in criminal cases in India. There may be discrepancies in how these laws are applied by various courts and jurisdictions, which could affect how mental health issues are handled in criminal cases.

¹ Stephen J. Morse, "Diminished Capacity: A Moral and Legal Conundrum," *International Journal of Law and Psychiatry*, June 4, 2002, <https://www.sciencedirect.com/science/article/pii/0160252779900098>.

² The Indian Penal Code, 1860, §300.

³ The Indian Penal Code, 1860, §84.

⁴ Legal Paradigm - *International Journal of Law and legal jurisprudence ...*, accessed January 18, 2024, <http://www.ijlljs.in/wp-content/uploads/2016/02/10.pdf>.

⁵ The Indian Penal Code, 1860, §85.

Homicide Act (The United Kingdom)

The initial substantial examination of diminished responsibility by English authorities occurred in the mid-twentieth century, during the Royal Commission on Capital Punishment (1949–1953). This commission deliberated on the prospect of incorporating the Scottish law into the legal framework of England and Wales. The clause addressing diminished responsibility appears to have been non-controversial and was enacted into law with the passage of the Homicide Act 1957.⁶ The 1957 Act stipulated that if a defendant accused of murder had an 'abnormality of mind' that 'substantially' impaired their 'mental responsibility' for the act, they would be held accountable for manslaughter instead.⁷

In Section 2 of the Act, it was outlined that the defence bore the burden of proving diminished responsibility. If successful, a defendant pleading diminished responsibility would be found guilty of manslaughter instead of murder, with the sentencing left to the discretion of the court. The section specified that the necessary 'abnormality of mind' must stem from 'arrested or retarded development of mind' or 'any inherent causes' or be 'induced by disease or injury.' The applicability of diminished responsibility was (and continues to be) narrowly limited to cases involving murder.⁸

Diminished responsibility, as stipulated by the Homicide Act in the United Kingdom, is a legal principle that injects a degree of intricacy and empathy into the criminal justice system. This provision plays a vital role in acknowledging the unequal responsibility individuals may bear for their actions, particularly in cases where mental health issues or abnormalities are factors. Due to the Coroners and Justice Act 2009, there have been amendments to the law of diminished responsibility. The updated law states that diminished responsibility can be considered when a killing is attributed to an 'abnormality of mental functioning' resulting from a 'recognized medical condition,' substantially impairing the defendant's 'ability' to comprehend the nature of their actions, make rational judgments, or exercise self-control. Additionally, the 'abnormality' should provide an explanation for the defendant's involvement in or commission of the killing.⁹

⁶ Arlie Loughnan, "‘Manifest Madness’: The Intersection of ‘Madness’ and Crime," *Manifest Madness Mental Incapacity in the Criminal Law*, 2012, 39–64, <https://doi.org/10.1093/acprof:oso/9780199698592.003.0003>.

⁷ Homicide Act, 1957, §2.

⁸ Arlie Loughnan, "‘Manifest Madness’: The Intersection of ‘Madness’ and Crime," *Manifest Madness Mental Incapacity in the Criminal Law*, 2012, 39–64, <https://doi.org/10.1093/acprof:oso/9780199698592.003.0003>.

⁹ Coroners and Justice Act, 2009, §52 (Amending Homicide Act, 1957, §2).

Considering the mandatory life sentence for first-degree murder, a successful plea of diminished responsibility would still serve as a mechanism to introduce sentencing discretion, similar to the provisions outlined in the originally drafted Section 2(1) of the Homicide Act 1957. Permitting defendants to provide proof of an "abnormality of mind" that significantly hinders their mental functions during the commission of the offense allows for a more personalized and equitable evaluation of their culpability. Moreover, diminished responsibility serves to alleviate the potential for injustice by providing a route to justice that takes into account the intricate relationship between mental health and criminal conduct. Essentially, diminished responsibility embodies a delicate balance between accountability and empathy, contributing to a legal framework in the UK that is more just and compassionate.

Nallathangal Syndrome (Madras)

The term "Nallathangal syndrome" derives from the Nallathangal ballad, an age-old work of Tamil literature. This ballad tells the poignant story of a wealthy woman facing overwhelming hardships, experiencing profound and agonizing misery due to unexpected poverty. In an attempt to escape this suffering, she tragically takes her own life along with her children.¹⁰ The term was first used by the Madras High Court, who coined it in the year 1989. This concept is considered to be the Indian equivalent of the English legal concept of Battered Woman Syndrome.¹¹

In the case *Suyambukkani v. State of T.N.*,¹² the accused woman, unable to endure the harsh treatment from her husband, leaped into a well with her children. While the children did not survive, she did. She faced charges for both murder and attempted suicide. The Madras High Court said that the Nallathangal ballad has generated a tendency for imitation among women, and the syndrome remains widespread among them. The court held that while pre-meditation is present, there was evidently no malicious intent. In their view, the drastic act of family suicide involving the mother and her children constitutes an excusing circumstance comparable to those specified in the Exceptions to Section 300 of the IPC. Consequently, when the mother survives and the children perish, it is to be considered as an exception, categorizing the offense as one punishable under Section 304 of the IPC.

¹⁰ Keerthana Medarametla, Battered women: The gendered notion of defences available, accessed January 18, 2024, <https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1049&context=slr>.

¹¹ Devm, Devm / About Author More posts by Devm, and More posts by Devm, "Battered Women Syndrome," Jus Corpus, September 4, 2021, <https://www.juscorpus.com/battered-women-syndrome/>.

¹² *Suyambukkani v. State of T.N.*, 1989 SCC OnLine Mad 481.

Following this judgement, the Guwahati High Court overturned murder charges in a similar case¹³, and instead reduced the sentence of the accused to culpable homicide not amounting to murder. Legal interpretations of the Nallathangal syndrome have evolved over time, reflecting a more sophisticated understanding of the intricate dynamics involved. This history shows a change in the law toward the recognition of extenuating circumstances in cases of significant family hardship.

Mental Health Legislation

The Mental Healthcare Act¹⁴ was passed by the Indian government in the year 2017. This was done to repeal the original mental health legislation existing in the country, which was criticized for being narrow in scope and inadequate for addressing the concerns of mental health. The legislation outlines the method and steps to be adhered to concerning the admission, treatment, and release of individuals with mental illness. This appears to be an approach where Indian courts and the parliament are promoting a more holistic and empathetic viewpoint of the mental disorders that a person might be suffering from. This is helpful in our discussion on the importance of recognizing the state of mind of the accused as a mitigating factor while awarding the punishment for the offence committed, such as murder, assault etc.

The civil facets of mental health care, including as admissions, treatment plans, and discharge procedures, are mostly governed by mental health laws. The Indian Penal Code and other relevant criminal legislation govern the legal evaluation of diminished responsibility in criminal proceedings. The 2017 Act does not delve into or even mention the concept of diminished liability. That does not undermine the importance of recognizing the widespread relevance of mental health in court cases while, at the same time, attempting to alleviate the stigma surrounding the conversation of psychological well-being.

SOCIAL PARADIGMS AND LEGAL CHALLENGES

In patriarchal societies, such as the prevailing one in India, inflexible, polarized, and hierarchical gender roles contribute to a robust normative connection between gender and the handling of individuals accused of violent crimes like homicide. Unlike many common law countries that have witnessed a social shift towards making criminal laws more gender-sensitive by

¹³ Manju Lakra v. State of Assam, 2013 SCC OnLine Gau 207.

¹⁴ The Mental Healthcare Act, 2017.

incorporating the perspectives of battered women, India's situation remains distinct.¹⁵

In South Asia, women are not socialized or conditioned to exhibit aggression. Instead, traits like submissiveness, docility, obedience, and a non-questioning approach are instilled, often under the pretext of showing respect and love for the hierarchical, patriarchal, and autocratic family structure. Moreover, the handling of domestic violence cases raises concerns. Terms like 'mediation,' 'counselling,' 'compromise,' 'adjustment,' 'conciliation,' and 'settlement' define the language and shape the legal process. Women's conditioning, including their perceived inability to assert agency, financial dependence, socialization as sacrificial family figures, and docility, is often disregarded. Instead, their submissive roles as wives and homemakers are sometimes idealized in marital relationships.¹⁶

In a society where more often than not the victim will be blamed, it may be hard to introduce this concept of diminished responsibility, howsoever necessary it may be. This is not the case just in India, as in a myriad of cases from overseas, similar observations were made.

In *R. v. Malott*, Justice Claire L'Heureux Dubé accurately observes that:

*“By emphasizing a woman’s ‘learned helplessness’, her dependence, her victimization, and her low self-esteem, in order to establish that she suffers from ‘battered woman syndrome’, the legal debate shifts from the objective rationality of her actions to preserve her own life to those personal inadequacies which apparently explain her failure to flee from her abuser. Such an emphasis comports too well with society’s stereotypes about women.”*¹⁷

Regrettably, this mirrors our country's approach to domestic violence, wherein it adopts a clinical stance by punishing the female perpetrator instead of recognizing and addressing the broader issue of domestic violence. This is evident in another case of *R v. Thornton*. Sara Thornton confronted an abusive and violent situation wherein her partner threatened to murder her while she slept. Faced with psychological paralysis and fearing imminent harm, she stabbed him in a

¹⁵ “Вы Точно Человек?,” КиберЛенинка, accessed January 18, 2024, <https://cyberleninka.ru/article/n/battered-woman-syndrome-prospect-of-situating-it-within-criminal-law-in-india>.

¹⁶ Adv Dr Shalu Nigam et al., “Battered Women Syndrome: Applying This Legal Doctrine in the Indian Context,” *Countercurrents*, August 6, 2016, https://countercurrents.org/2016/08/battered-women-syndrome-applying-this-legal-doctrine-in-the-indian-context/#_ftn17.

¹⁷ Regina A. Schuller et al., “Rethinking Battered Woman Syndrome Evidence: The Impact of Alternative Forms of Expert Testimony on Mock Jurors’ Decisions.,” *Canadian Journal of Behavioural Science / Revue Canadienne Des Sciences Du Comportement* 36, no. 2 (2004): 127–36, <https://doi.org/10.1037/h0087223>.

state of utter despair. Despite her plea that this act was a psychological defence, she was convicted of murder. The Court refused to perceive the defendant as a victim of her circumstances. Instead, it deemed her actions to be more aligned with aggression and vengeance rather than victimization.¹⁸

Thus, the endeavour to introduce the concept of diminished responsibility in societies like India reveals not just a legal obstacle but a deeply rooted cultural and societal reluctance to acknowledge the experiences of individuals, particularly women, in abusive circumstances. Persistent patriarchal norms contribute to the perpetuation of stereotypes, impeding the development of legal frameworks. There is a clear need for a transformative shift, advocating for a more empathetic and inclusive approach to comprehend the dynamics of such violence.

CHALLENGING PERSPECTIVES AND EVALUATING CRITIQUES

Some feminist scholars strongly critique the utilization of Battered Woman Syndrome and diminished responsibility as defences in murder cases involving women who have experienced domestic violence. The serious implications of employing this defence are evident, as women who successfully use it may be categorized as 'mentally ill' and subjected to institutional confinement or placed on probation.¹⁹

However, it must be countered that these legal approaches offer a nuanced comprehension of the intricate dynamics in domestic violence. They maintain that these defences aim to recognize the impact of abuse on mental well-being, striving for a fair legal assessment without stigmatizing women. Supporters stress the significance of acknowledging the distinctive challenges individuals face in abusive relationships, contending that these defences can enhance a more compassionate and equitable legal system.

Another frequently asked question is why these women endure the violence and don't simply end their relationships with their partners. Derived from American psychologist Martin Seligman's studies, Dr. Walker adapted the concept of 'learned helplessness' to elucidate the behaviour of battered women. Persistent battering and abuse create a sense of entrapment, and

¹⁸ R. v. Thornton (No. 2), (1996) 1 WLR 1174.

¹⁹ R. v. Byrne, (1960) 2 QB 396, 403; (1960) 3 WLR 440.

the lack of proper physical and mental support, especially in India's socio-cultural environment, makes it extremely difficult for women to break free from their abusive partners. This leads us to the next critique, in which women may misuse this standard or exception to avoid punishment. This argument emerges on two fronts: first, it is argued that it might give women the freedom to revenge and kill their husbands with little provocation, thus allowing for an easier escape from legal penalties. Second, it is suggested that this method may jeopardise the right to a fair trial for male homicide suspects and victims.

As we counter this criticism, it is pertinent to note that Battered Woman Syndrome (BWS) as a legal defence is not merely about establishing a new exception; rather, it provides a framework within statutory defences for judges to comprehend the circumstances of a battered woman, taking into account their experiences and trauma. BWS does not guarantee complete exoneration; it functions as a partial defence. This implies that utilizing BWS in cases involving provocation or diminished responsibility merely shifts the liability from a more serious offense, like murder, to culpable homicide not amounting to murder. While there is disagreement among psychologists regarding the severity of this condition, its assessment should be done on a case-by-case basis rather than establishing it as a blanket exception for all women.²⁰

Despite the criticism, there is a necessity for the law and courts in India to be open to Battered Woman Syndrome (BWS) and diminished responsibility. Domestic violence is deeply ingrained in society, and women enduring abuse find themselves ensnared in violent relationships, often due to inadequate institutional responses.

REFORMING INDIAN LAW

This paper advocates for certain reforms that can be undertaken to ensure the inclusion of diminished responsibility within the framework of the Indian legal system. The most essential recommendation is to include a section in the IPC or any upcoming criminal legislation that clearly addresses the concept of diminished responsibility. This definition should be exact and unambiguous to assist individuals who may not be in the right frame of mind while committing a criminal offence. It is critical to revise sentencing guidelines to reflect a more nuanced

²⁰ Analysis Criminal Law Feminism Opinion Women's rights et al., "The Conflicting Intersection of the 'Reasonable Man' Standard and the Battered Woman Syndrome – the Leaflet," The Leaflet – An independent platform for cutting-edge, progressive, legal, and political opinion., December 19, 2021, <https://theleaflet.in/the-conflicting-intersection-of-the-reasonable-man-standard-and-the-battered-woman-syndrome/#:~:text=2>.

understanding of reduced responsibility, as well as to encourage customized and adaptable sentencing that is appropriate for individuals with mental disorders.

To provide legitimate opinions on the accused's mental state, it is critical to urge the participation of mental health specialists as expert witnesses in situations of diminished responsibility. Education programs for juries, judges, and legal professionals could help eliminate bias and stigma associated with mental health concerns while also improving consciousness of these topics in court. To assist in the development of evidence-based policy and legal reforms, research initiatives and data gathering efforts should be conducted to get a better knowledge of the prevalence and patterns of circumstances involving decreased liability.

CONCLUSION

To summarise, India's legal system for diminished responsibility demonstrates a significant gap in addressing mental health complications in criminal culpability. The lack of express provisions highlights the limitations of present regulations in recognising nuanced features of diminished responsibility. Comparative investigations with the UK's Homicide Act and the Nallathangal syndrome in Madras reveal more precise legal frameworks that recognise the complex relationship between mental health and criminal behaviour. However, cultural and social norms in India present challenges, particularly for women enduring domestic violence, since strongly ingrained patriarchal traditions oppose accepting their experiences.

Despite criticism, reform ideas emphasise the importance of clear legal definitions, procedures, and expert advice from mental health professionals. The reform aspires to create an empathetic and inclusive judicial system that takes into account changing attitudes towards mental health issues. Creating awareness and legislative changes are required for an appropriate response to cases involving diminished responsibility. Addressing India's legal framework weaknesses necessitates a comprehensive approach that includes legal reforms, societal adjustments, and an awareness of the complex relationships between mental health and criminal conduct. Only via these comprehensive measures will India be able to advance towards a legal system that is both just and compassionate in recognising challenges of diminished responsibility.