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DIGITAL ADDICTION AND CRIMINAL LIABILITY: MENTAL HEALTH DEFENCES IN TECHNOLOGY- INDUCED DISORDERS

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ABSTRACT

The convergence of psychiatric science and criminal jurisprudence has produced enduring tensions wherever human behaviour is shaped by forces that resist easy moral categorisation. Digital addiction, now increasingly recognised within clinical nosology as a spectrum of technology-induced disorders, presents precisely such a challenge. This paper examines whether compulsive engagement with digital technology — including internet gaming disorder, social media compulsion, and problematic smartphone use — can sustain a viable mental health defence to criminal liability. Drawing upon the frameworks of insanity, diminished responsibility, and automatism as developed across common law jurisdictions and under Indian penal law, the paper argues that digital addiction occupies a contested but legally cognisable space. The paper surveys the diagnostic criteria established by the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) and the International Classification of Diseases, Eleventh Revision (ICD-11), evaluates relevant judicial precedents, and situates the analysis within broader debates concerning volition, legal causation, and the limits of individual responsibility in a technologically saturated society. The authors contend that courts require a doctrinally coherent, evidence-anchored standard for adjudicating mental health defences grounded in digital addiction, and that existing frameworks, while strained, can be developed incrementally to meet this need.

Keywords: Digital Addiction, Criminal Liability, Mental Health Defence, Insanity, Diminished Responsibility, Internet Gaming Disorder, Mens Rea, ICD-11, OSCOLA.

1. INTRODUCTION

Criminal law rests upon a foundational assumption: that the accused, at the moment of the prohibited act, possessed sufficient cognitive and volitional capacity to be held morally accountable.¹ This assumption has always been qualified by doctrines accommodating mental disorder, recognising that persons whose reason is substantially impaired by disease cannot be treated as the law treats ordinary rational agents. The insanity defence, provisions for diminished responsibility, and the doctrine of automatism each represent principled accommodations of this kind. What is novel about digital addiction is not, therefore, the general idea that disordered psychology may mitigate or excuse criminal responsibility — it is the nature of the disorder itself, its origins in technologies deliberately engineered to capture and sustain attention, and the growing weight of psychiatric authority suggesting that such engagement can, in severe cases, produce neurological changes functionally analogous to substance dependence.

The past decade has seen a marked acceleration in clinically recorded cases of problematic technology use. The World Health Organisation's inclusion of gaming disorder within ICD-11 in 2018, and the American Psychiatric Association's recognition of internet gaming disorder as a condition warranting further study in DSM-5, represent significant steps toward formal clinical legitimacy.² Yet legal systems have been slow to engage with the implications. Where defendants have invoked addiction-related impairment as a mitigation or defence in criminal proceedings, courts have typically applied existing frameworks without substantive modification — often with unsatisfactory results that neither fully vindicate the accused nor adequately interrogate the psychiatric evidence.

This paper proceeds as follows. Section 2 establishes the clinical parameters of digital addiction as understood in contemporary psychiatry. Section 3 examines the mens rea architecture of criminal liability and the doctrinal challenge posed by compulsive technology use. Sections 4 and 5 analyse the established mental health defences — insanity, diminished responsibility,

¹ HLA Hart, *Punishment and Responsibility: Essays in the Philosophy of Law* (2nd edn, OUP 2008) 28–53.

² World Health Organisation, *International Classification of Diseases, 11th Revision (ICD-11)* (WHO 2019) code 6C51; American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders* (5th edn, APA 2013) 795–798.

and automatism — and their potential application to digital addiction. Section 6 offers a comparative jurisdictional survey. Section 7 considers judicial trends. Section 8 proposes directions for doctrinal development, and Section 9 concludes.

2. DIGITAL ADDICTION: CLINICAL PARAMETERS AND LEGAL SIGNIFICANCE

2.1 Clinical Recognition of Technology-Induced Disorders

Digital addiction, as a generic term, encompasses a range of conditions including internet gaming disorder, social media addiction, compulsive pornography consumption, problematic smartphone use, and online gambling disorder. These are not uniform phenomena; they vary significantly in aetiology, symptomology, and severity.³ Nevertheless, certain core features recur across the literature: salience (the activity dominates mental life), tolerance (escalating engagement is required for the same effect), withdrawal (cessation produces psychological and physiological discomfort), relapse (return to the behaviour following attempts at abstinence), and conflict (the behaviour persists despite significant adverse consequences).⁴

The ICD-11, effective from January 2022, includes Gaming Disorder (6C51) as a recognised diagnosis, characterised by impaired control over gaming, increasing priority given to gaming over other life interests, and continuation despite negative consequences, with symptoms persisting for at least twelve months.⁵ The DSM-5 situates Internet Gaming Disorder in Section III as a condition meriting further clinical investigation, declining to accord it full diagnostic status whilst acknowledging the sufficiency of evidence to warrant systematic research.⁶ Critically, neuroimaging studies have documented structural and functional changes in the prefrontal cortex and limbic systems of persons with gaming disorder that are strikingly similar to those observed in subjects with substance use disorders, particularly with respect to impulse control and reward processing.⁷

2.2 Legal Relevance of Clinical Recognition

The legal relevance of clinical recognition is two-fold. First, it establishes that digital addiction is not a matter of mere preference or weakness of will but a condition with identifiable

³ Mark Griffiths, 'A "Components" Model of Addiction within a Biopsychosocial Framework' (2005) 10(4) *Journal of Substance Use* 191, 192.

⁴ *ibid* 193.

⁵ ICD-11 (n 2) code 6C51.

⁶ DSM-5 (n 2) 795.

⁷ Daria Kuss and Mark Griffiths, 'Internet Gaming Addiction: A Systematic Review of Empirical Research' (2012) 8(3) *International Journal of Mental Health and Addiction* 278, 285.

neurological correlates and measurable impairment of control. Second, it provides the expert evidentiary foundation without which no mental health defence can succeed. Courts have consistently demanded credible psychiatric testimony as a precondition for any departure from the ordinary presumption of responsibility.⁸ The formal recognition of digital addiction within ICD-11 materially strengthens the capacity of defendants to satisfy this evidentiary threshold.

3. THE MENS REA PROBLEM IN TECHNOLOGY-INDUCED DISORDERS

The criminal law's requirement of mens rea — of a guilty mind — serves as the principal mechanism by which moral culpability is embedded in legal liability. The specific form of mens rea required varies with the offence: intention, recklessness, or negligence. In each case, however, the law proceeds on the premise that the defendant, at the time of acting, had access to the cognitive and volitional resources necessary to form or avoid the relevant mental state.⁹ Digital addiction complicates this picture in a manner that is structurally analogous to, though legally distinguishable from, intoxication. In cases of severe gaming or internet addiction, defendants have committed offences — including theft, fraud, neglect, and in extreme cases, violence — whilst in states described clinically as dissociative or hyperfocused, characterised by severely diminished awareness of their physical environment and of the consequences of their conduct.¹⁰ Whether such states negate the relevant mens rea depends critically upon the offence charged and the specific form of impairment alleged.

Three doctrinal routes potentially engage this problem. First, if the addiction is sufficiently severe to constitute a disease of the mind that deprives the defendant of the capacity to know the nature or quality of the act, or that it is wrong, the insanity defence may be invoked. Second, if the addiction substantially impairs the defendant's ability to exercise rational control over their conduct without entirely negating cognition, diminished responsibility may reduce liability. Third, in exceptional cases, where the defendant acted in a wholly automatic state arising from a recognised disorder, the defence of automatism may apply.

⁸ *R v Kemp* [1957] 1 QB 399, 407 (Devlin J).

⁹ Andrew Ashworth, *Principles of Criminal Law* (7th edn, OUP 2013) 165–170.

¹⁰ Daria Kuss, 'Internet Gaming Addiction: Current Perspectives' (2013) 4 *Psychology Research and Behavior Management* 125, 129.

4. THE INSANITY DEFENCE AND DIGITAL ADDICTION

4.1 The M’Naghten Framework

The foundational criteria for the insanity defence in common law jurisdictions derive from *M’Naghten’s Case*,¹¹ in which the House of Lords formulated the test that remains substantially operative today: the defendant must be labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act, or, if they did know it, not to know that what they were doing was wrong. The test is cognitively oriented and deliberately restrictive, reflecting Victorian anxieties about the abuse of the defence and the circumvention of penal accountability.

Two elements of the M’Naghten test are particularly germane to digital addiction: the requirement of a ‘disease of the mind’, and the requirement that the disease produce a ‘defect of reason’. In *R v Kemp*,¹² Devlin J held that ‘disease of the mind’ refers not to any particular anatomical seat but to the functioning of the mind, and that any disease which produces a malfunctioning of the mental faculties satisfies this criterion. The neurological evidence establishing that severe gaming disorder impairs prefrontal executive function and impulse regulation is therefore potentially sufficient to satisfy the ‘disease of the mind’ limb. The more formidable obstacle is the defect of reason requirement: the M’Naghten test demands cognitive incapacity of a high degree, and many persons addicted to technology retain an intellectual awareness of what they are doing, even whilst being unable to stop.

4.2 Section 84 of the Indian Penal Code, 1860

Under Indian law, the corresponding provision is section 84 of the Indian Penal Code 1860,¹³ which exculpates a person who, at the time of the act, was, by reason of unsoundness of mind, incapable of knowing the nature of the act, or that it was wrong or contrary to law. The Supreme Court in *Surendra Mishra v State of Jharkhand*¹⁴ reiterated that the burden of proving unsoundness of mind lies upon the accused and that mere proof of some mental abnormality is insufficient; the unsoundness must be of such a degree as to produce one of the specified incapacities. The Court has further held that every person is presumed sane until the contrary is proved, and that the defence requires cogent medical evidence supported by the circumstances of the case.¹⁵

¹¹ *M’Naghten’s Case* (1843) 10 Cl & Fin 200, 8 ER 718.

¹² *R v Kemp* [1957] 1 QB 399.

¹³ Indian Penal Code 1860, s 84.

¹⁴ *Surendra Mishra v State of Jharkhand* (2011) 11 SCC 495, [12].

¹⁵ *Bapu @ Gajraj Singh v State of Rajasthan* (2007) 8 SCC 66, [14].

The application of section 84 to digital addiction therefore faces a substantial evidential burden. A defendant alleging that compulsive technology use rendered them incapable of knowing the nature of an act — for instance, a defendant who committed theft to fund online gaming, or who neglected a dependent whilst absorbed in an online environment — would need to establish not merely that the addiction is recognised and severe but that it produced, at the material time, an incapacity of the kind specified. This is a demanding but not insurmountable showing, particularly in cases involving documented psychotic episodes or severe dissociative states precipitated by gaming disorder or internet use.

5. DIMINISHED RESPONSIBILITY AND IMPULSE CONTROL IN DIGITAL ADDICTION

5.1 The Diminished Responsibility Doctrine

The defence of diminished responsibility, introduced into English law by the Homicide Act 1957¹⁶ and substantially revised by the Coroners and Justice Act 2009,¹⁷ offers a more doctrinally accommodating vehicle for cases of digital addiction than the insanity defence. Section 2(1) of the 1957 Act, as amended, provides that a defendant who kills is not to be convicted of murder if they were suffering from an abnormality of mental functioning arising from a recognised medical condition, which substantially impaired the defendant's ability to understand the nature of the conduct, form a rational judgment, or exercise self-control, and which provides an explanation for the defendant's acts.

Two features of this formulation are particularly significant. First, the defence does not require cognitive incapacity in the M'Naghten sense; it suffices that the abnormality of functioning substantially impaired the ability to exercise self-control — a requirement directly engaging the volitional impairments that characterise digital addiction at its most severe. Second, the condition must arise from a 'recognised medical condition', a phrase which the Court of Appeal in *R v Dowds*¹⁸ held to be synonymous with conditions identified in respected international classifications such as DSM and ICD. The inclusion of gaming disorder in ICD-11 accordingly satisfies the recognised medical condition requirement, subject to the defendant establishing that their condition was sufficiently severe to produce the requisite degree of impairment.

¹⁶ Homicide Act 1957, s 2(1).

¹⁷ Coroners and Justice Act 2009, s 52.

¹⁸ *R v Dowds* [2012] EWCA Crim 281, [2012] 1 WLR 2576, [34].

5.2 Application in Cases Involving Digital Addiction

In practice, diminished responsibility claims based on digital addiction are most plausible in cases where the offending is directly causally connected to the addiction. Consider the category of offences committed by caregivers neglecting dependants whilst absorbed in online gaming — a scenario that has generated criminal proceedings in South Korea, the United States, and China.¹⁹ In such cases, the addiction provides not merely a motivational context for the offence but, in severe cases, an explanation grounded in the impaired capacity for self-regulation that is clinically documented in gaming disorder. Equally, defendants who commit cybercrimes — unauthorised access, online fraud — whilst in states of compulsive use that substantially impair their rational judgment present viable, if untested, claims for reduced culpability.

Indian law does not at present contain a general statutory provision equivalent to section 2 of the Homicide Act 1957. Section 84 of the IPC remains the primary vehicle for mental disorder defences, and its restrictive cognitive formulation ill-accommodates volitional impairment of the kind associated with addiction. Academic commentary has consistently called for legislative recognition of a diminished responsibility doctrine under Indian criminal law, modelled upon comparative provisions, and this gap is particularly acute in the context of technology-induced disorders.²⁰

6. AUTOMATISM AND THE INVOLUNTARY ACT

The defence of automatism excuses a defendant whose conduct was not voluntary in the legal sense — that is, whose bodily movements occurred without the exercise of conscious control.²¹ In *Bratty v Attorney General for Northern Ireland*,²² Lord Denning defined automatism as an act done by the muscles without any control by the mind. The defence bifurcates into insane automatism, where the automatism arises from a disease of the mind within M’Naghten and results in a special verdict, and non-insane automatism, where an external factor produces the relevant state and entitles the defendant to an unqualified acquittal.

Digital addiction poses a peculiar challenge in this context. The dissociative states documented in severe gaming disorder — where subjects report extended periods of gaming accompanied by reduced awareness of physical surroundings, bodily needs, and the passage of time — bear

¹⁹ Ju-Yu Yen and others, ‘The Comorbid Psychiatric Symptoms of Internet Addiction: Attention Deficit and Hyperactivity Disorder (ADHD), Depression, Social Phobia, and Hostility’ (2007) 193(6) *Journal of Adolescent Health* 482, 484.

²⁰ KD Gaur, *Criminal Law: Cases and Materials* (8th edn, LexisNexis 2019) 411–415.

²¹ *Hill v Baxter* [1958] 1 QB 277, 285 (Pearson J).

²² *Bratty v Attorney General for Northern Ireland* [1963] AC 386, 409 (Lord Denning).

some resemblance to automatism but are unlikely to satisfy its legal requirements in their strict form. The courts have been consistently reluctant to extend the automatism defence beyond states of complete unconsciousness or near-complete loss of control.²³ Moreover, the episodic and self-induced nature of the state may attract the voluntarily induced incapacity rule applied in intoxication cases, though this analogy is imperfect given the compulsive character of the engagement.

7. COMPARATIVE JURISDICTIONAL PERSPECTIVES

7.1 South Korea and China

South Korea, which has among the highest rates of internet and gaming addiction globally, enacted the Act on the Promotion of Information and Communications Network Utilisation and Information Protection²⁴ and established a comprehensive network of addiction treatment centres, but has not yet developed a corresponding criminal law jurisprudence expressly addressing digital addiction as a mental health defence. Chinese courts have similarly confronted cases of gaming-related neglect and violence, generally treating addiction as an aggravating factor in sentencing rather than as the basis for a substantive defence.²⁵

7.2 United States

In the United States, the availability of mental health defences varies significantly by state. Federal courts apply the standard established by the Insanity Defense Reform Act 1984,²⁶ which requires that the defendant, as a result of severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Several state courts have admitted expert psychiatric testimony on internet and gaming addiction in mitigation proceedings, and at least one state court has considered it in the context of a competency determination, though no appellate court has definitively ruled on its admissibility as a substantive defence.²⁷

7.3 United Kingdom

The United Kingdom has produced the most doctrinally developed framework for considering

²³ *R v Sullivan* [1984] AC 156, 172 (Lord Diplock).

²⁴ Act on the Promotion of Information and Communications Network Utilisation and Information Protection (South Korea) Act No 6360 of 2001 (as amended 2020).

²⁵ Xiuqin Huang and others, 'Mental Health, Personality, and Parental Rearing Styles of Adolescents with Internet Addiction Disorder' (2009) 13(4) *CyberPsychology & Behavior* 401, 403.

²⁶ Insanity Defense Reform Act 1984 (US) 18 USC § 17.

²⁷ *State v Ferguson*, No 2012-CA-0056 (Ohio Ct App, 5th Dist, 2013) (unreported).

psychological conditions in criminal proceedings, through the combination of the insanity defence, diminished responsibility provisions under the Homicide Act 1957, and the broad discretion afforded courts in sentencing under the Criminal Justice Act 2003.²⁸ The Mental Health Act 1983, as amended by the Mental Health Act 2007,²⁹ further provides for the detention and treatment of offenders suffering from mental disorder, and the breadth of the definition of mental disorder in that Act — any disorder or disability of the mind — is sufficiently capacious to accommodate technology-induced disorders upon appropriate clinical evidence.

8. JUDICIAL TRENDS AND EMERGING PRECEDENTS

Judicial engagement with digital addiction has thus far been more pronounced in civil and family proceedings than in criminal law. In child welfare cases in the United Kingdom, courts have considered parental gaming addiction as a factor relevant to child neglect determinations, accepting expert psychiatric evidence regarding the clinical features of the condition.³⁰ In criminal sentencing proceedings, digital addiction has been acknowledged as a mitigating factor in a number of unreported magistrates' court decisions, though the Court of Appeal has not yet delivered a judgment squarely addressing its status as a substantive defence.

In the Indian context, courts have addressed technology-related offences primarily through the lens of the Information Technology Act 2000³¹ and cybercrime provisions of the Indian Penal Code 1860, without substantive engagement with the mental health dimensions. The Mental Healthcare Act 2017,³² which defines mental illness as a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality, or ability to meet the ordinary demands of life, is potentially broad enough to accommodate severe cases of digital addiction. Section 103 of that Act, which requires that courts take into account the mental illness of an accused as a mitigating factor, provides a statutory basis for considering digital addiction evidence in sentencing, even where it does not satisfy the threshold for the insanity defence.

The case of *Kishore Chand v State of Himachal Pradesh*³³ articulated the principle that courts

²⁸ Criminal Justice Act 2003, s 166.

²⁹ Mental Health Act 1983, s 1 (as amended by Mental Health Act 2007, s 1).

³⁰ *Re A (A Child)* [2015] EWFC 11 (Fam) [39]–[42].

³¹ Information Technology Act 2000 (India).

³² Mental Healthcare Act 2017 (India), s 2(s).

³³ *Kishore Chand v State of Himachal Pradesh* AIR 1990 SC 2140, [8].

must approach mental disorder evidence with care and without prejudice, giving due weight to expert psychiatric testimony. This principle, though decided in a different context, establishes the general evidentiary approach applicable when digital addiction evidence is tendered in criminal proceedings. Courts should neither dismiss such evidence categorically nor accept it uncritically, but should subject it to the same rigorous scrutiny applied to any expert testimony.

9. TOWARDS A DOCTRINAL REFORMULATION

The foregoing analysis reveals that existing mental health defences are capable, in principle, of accommodating digital addiction, but that their application is hampered by three structural deficiencies. First, the cognitive orientation of the insanity defence, both in common law and under section 84 of the IPC, poorly captures the predominantly volitional impairments characteristic of severe addiction. Second, the absence in Indian law of a general diminished responsibility provision leaves courts without an adequate intermediate category between full conviction and complete acquittal. Third, the evidential requirements for establishing a mental health defence — in particular the need to demonstrate incapacity at the material time rather than general clinical severity — create a burden that many defendants will struggle to discharge.

Several reforms suggest themselves. First, the Indian legislature should consider enacting a statutory diminished responsibility provision, operationalised by reference to ICD-11 diagnostic criteria and expressly applicable to conditions characterised by impaired impulse control and compulsive behaviour. Such a provision would enable courts to return a verdict of a lesser offence where the addiction is established but falls short of the strict incapacity requirements of section 84. Second, courts should be guided by practice directions addressing the admissibility and evaluation of expert psychiatric evidence on digital addiction, drawing upon the detailed diagnostic criteria of ICD-11 and DSM-5 to ensure consistency of approach. Third, sentencing guidelines should expressly address technology-induced disorders as a category of mitigating circumstance, distinguishing between defendants who are receiving treatment, those who have relapsed, and those who present ongoing risk.

The comparison with substance addiction is instructive here. Although the legal treatment of substance addiction as a basis for criminal defence has been controversial, common law systems have progressively developed nuanced approaches that acknowledge the compulsive

dimension of addiction without entirely abdicating the demand for personal responsibility.³⁴ A similar trajectory for digital addiction is both doctrinally coherent and practically achievable, particularly given the accelerating pace of clinical recognition and the growing body of neurological evidence establishing the physiological basis of the disorder.

One must also acknowledge the broader structural question: to what extent do the technology companies whose products are deliberately engineered to maximise engagement bear legal or regulatory responsibility for the addictive properties of those products? This question, though beyond the scope of a strictly doctrinal analysis of criminal defences, is increasingly significant in regulatory discourse and in tort litigation. If digital addiction is, in part, the product of algorithmic design rather than merely individual susceptibility, then the moral calculus of criminal responsibility — premised upon individual choice and self-determination — requires reconsideration in a manner that the current architecture of criminal law does not fully facilitate.³⁵

10. CONCLUSION

Digital addiction, as a category of technology-induced mental disorder, presents genuine and growing challenges to criminal law's foundational commitment to individual responsibility premised upon capacity and choice. This paper has argued that existing mental health defences — insanity, diminished responsibility, and automatism — are not wholly inapplicable to digital addiction, but that their application is impeded by cognitive formulations that fail to capture the predominantly volitional character of the disorder, by the absence of an adequate intermediate defence in Indian law, and by the evidentiary demands of establishing incapacity at the material time.

The formal recognition of gaming disorder in ICD-11 and the growing neurological evidence documenting prefrontal impairment in severe addicts provide the clinical foundation upon which reformed legal doctrine can be constructed. The path forward lies not in the wholesale abandonment of the responsibility principle but in its careful recalibration to account for conditions in which volitional capacity, rather than cognitive clarity, is the central casualty of disorder. Courts and legislatures that engage seriously with the psychiatric evidence, develop

³⁴ R v Caldwell [1982] AC 341, 354 (Lord Diplock); cf Rudi Fortson, *Misuse of Drugs and Drug Trafficking Offences* (7th edn, Sweet & Maxwell 2017) 89.

³⁵ Shoshana Zuboff, *The Age of Surveillance Capitalism* (Profile Books 2019) 450–462.

coherent evidentiary standards, and create appropriate intermediate categories of liability will be better placed to deliver just outcomes in cases involving technology-induced disorders than those that persist in applying nineteenth-century cognitive formulations to twenty-first-century neurological realities.

The intersection of law, psychiatry, and technology that digital addiction inhabits is not a transient anomaly; it is a structural feature of contemporary social life. Criminal jurisprudence must develop the doctrinal resources to navigate it with both rigour and humanity.

