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Mental Illness, Criminal Responsibility, and the Indian Justice System: A Socio-Legal Study of Section 22 of the Bharatiya Nyaya Sanhita, 2023 and Related Laws

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ABSTRACT

The relationship between mental illness and criminal responsibility has remained one of the most complexes and debated issues in criminal jurisprudence. Criminal law is founded upon the principle that liability arises only when a prohibited act is accompanied by a culpable mental state. However, this principle becomes difficult to apply where an accused person suffers from a mental disorder that substantially impairs cognitive or volitional capacity. Recognizing this complexity, legal systems across the world have developed the insanity defense, which exempts individuals from criminal liability where they lack the capacity to understand the nature or wrongfulness of their conduct. In India, this defense was historically embodied in Section 84 of the Indian Penal Code, 1860 and has now been substantially retained under Section 22 of the Bharatiya Nyaya Sanhita, 2023. This paper critically examines the legal and constitutional framework governing the insanity defence in India through a socio-legal perspective. It analyses the evolution of criminal responsibility from the M'Naghten Rules to the Bharatiya Nyaya Sanhita, 2023, while evaluating the distinction between legal insanity and medical insanity. The study further explores the role of forensic psychiatry, forensic psychology, expert evidence, judicial interpretation, and procedural safeguards under the Bharatiya Nagarik Suraksha Sanhita, 2023, the Bharatiya Sakshya Adhiniyam, 2023, the Mental Healthcare Act, 2017, and the Rights of Persons with Disabilities Act, 2016.

The paper argues that although Indian criminal law provides an effective legal framework for protecting persons suffering from severe mental illness, practical implementation remains constrained by social stigma, inadequate forensic mental health infrastructure, inconsistent judicial interpretation, and limited access to specialized psychiatric evaluation. Drawing upon constitutional jurisprudence, comparative legal analysis, and international human rights standards, the study proposes reforms aimed at strengthening the fairness, scientific reliability, and human rights orientation of the insanity defense within the Indian criminal justice system.

Keywords: Mental Illness; Criminal Responsibility; Section 22 Bharatiya Nyaya Sanhita, 2023; Section 84 Indian Penal Code; Legal Insanity; Forensic Psychiatry; Forensic Psychology; Criminal Justice; Mental Healthcare Act, 2017.

INTRODUCTION

The administration of criminal justice is founded upon the principle that criminal liability should ordinarily be imposed only upon individuals who possess both the physical capacity to commit an offence (*actus reus*) and the mental capacity to understand the nature and consequences of their conduct (*mens rea*). The doctrine of criminal responsibility therefore presupposes that punishment is morally and legally justified only where an individual acts voluntarily with the requisite degree of knowledge, intention, or recklessness.[1] This fundamental principle has shaped criminal jurisprudence across common law jurisdictions and continues to influence the development of substantive criminal law in India.

[1] *Glanville Williams, Textbook of Criminal Law* 17–25 (2d ed. 1983); *K. D. Gaur, Textbook on Indian Penal Code* 98–105 (8th ed. 2021).

Mental illness presents a unique challenge to this traditional understanding of criminal responsibility. Certain psychiatric disorders may substantially impair an individual's ability to comprehend reality, appreciate the consequences of conduct, distinguish between right and wrong, or exercise rational judgment. In such circumstances, the imposition of criminal punishment may conflict with the principles of justice, fairness, and moral culpability that underlie modern criminal law. Consequently, virtually every developed legal system recognizes some form of insanity defense, balancing the protection of society with the rights of persons suffering from serious mental disorders.[2]

The legal foundation of the insanity defense originates from the celebrated M'Naghten Rules of 1843**,** which established that a person should not be held criminally responsible if, at the time of committing the act, he or she was laboring under such a defect of reason arising from disease of the mind that the individual either did not know the nature and quality of the act or did not know that the act was wrong.[3]These principles profoundly influenced criminal jurisprudence throughout the British Commonwealth and became the basis for Section 84 of the Indian Penal Code, 1860. Following the enactment of the Bharatiya Nyaya Sanhita, 2023, the same fundamental principle has been substantially retained under Section 22, thereby preserving the continuity of India's criminal law concerning mental incapacity while modernizing the statutory framework. The insanity defense under Indian law is based upon the doctrine of legal insanity rather than medical insanity. This distinction is of considerable practical importance because the existence of a psychiatric diagnosis alone does not automatically exempt an accused from criminal liability. The decisive legal inquiry concerns the mental condition of the accused at the precise time of the commission of the offence and whether the impairment was so severe as to destroy the cognitive capacity required for criminal responsibility. Consequently, expert psychiatric and psychological evidence assumes considerable significance in assisting courts to evaluate criminal responsibility while ensuring that judicial decision-making remains consistent with established legal principles.[4]

The constitutional dimensions of criminal responsibility have acquired greater significance following the expansion of Article 21 of the Constitution of India. Judicial interpretation has consistently recognized that the right to life includes human dignity, procedural fairness, access to healthcare, privacy, and protection against arbitrary deprivation of liberty. These constitutional guarantees require that persons suffering from severe mental illness receive fair investigation, competent psychiatric assessment, appropriate legal representation, and humane treatment throughout the criminal justice process.[5] The enactment of the Mental Healthcare Act, 2017 further reinforces these constitutional values by recognizing mental healthcare as a statutory right founded upon dignity, autonomy, equality, and non-discrimination.

The transition from the Indian Penal Code to the Bharatiya Nyaya Sanhita, 2023 provides an appropriate opportunity to re-examine the legal framework governing criminal responsibility in light of contemporary developments in psychiatry, forensic psychology, constitutional law, and international human rights. While the statutory language has substantially preserved the traditional insanity defense, modern criminal justice increasingly requires scientific assessment methods, multidisciplinary collaboration, and rights-based approaches capable of balancing public safety with the protection of mentally ill offenders.[6] International human rights law has also significantly influenced the evolution of mental health jurisprudence. The Convention on the Rights of Persons with Disabilities (CRPD) emphasizes equality before the law, legal capacity, informed decision-making, community participation, and freedom from discrimination for persons with psychosocial disabilities. These principles have encouraged States to reform criminal justice systems so that individuals with mental illness receive treatment consistent with human dignity rather than unnecessary institutionalization or punitive sanctions.[7] Against this background, the present study critically examines the socio-legal dimensions of Section 22 of the Bharatiya Nyaya Sanhita, 2023. It analyses the historical development of the insanity defense, constitutional principles governing criminal responsibility, judicial interpretation, forensic psychiatric assessment, evidentiary standards, comparative legal approaches, and implementation challenges within the Indian criminal justice system. The study argues that although Indian law provides a comprehensive statutory framework for addressing mental illness in criminal

[2] *Ratanlal & Dhirajlal, The Bharatiya Nyaya Sanhita* 165–173 (2024); *K. N. Chandrasekharan Pillai, General Principles of Criminal Law* 214–228 (3d ed. 2018).

[3] *M'Naghten's Case*, (1843) 10 Cl. & Fin. 200, 8 Eng. Rep. 718 (H.L.).

[4] *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat*, AIR 1964 SC 1563; *Hari Singh Gond v. State of Madhya Pradesh*, (2008) 16 SCC 109.

[5] INDIA CONST. arts. 14 & 21; *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248; *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

[6] Bharatiya Nyaya Sanhita, No. 45 of 2023, § 22 (India); Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023; Bharatiya Sakshya Adhiniyam, No. 47 of 2023.

[7] Convention on the Rights of Persons with Disabilities arts. 12, 13 & 14, Dec. 13, 2006, 2515 U.N.T.S. 3; Mental Healthcare Act, No. 10 of 2017, India Code (2017).

proceedings, meaningful protection of mentally ill offenders requires greater institutional coordination, scientific expertise, procedural safeguards, and continuous judicial sensitivity to constitutional values and international human rights standards.[8]

LITERATURE REVIEW

The doctrine of criminal responsibility has occupied a central position in criminal jurisprudence because it determines the circumstances under which an individual may be held legally accountable for criminal conduct. Classical criminal law is founded upon the maxim *actus non facit reum nisi mens sit rea*, which signifies that an act alone does not constitute guilt unless accompanied by a guilty mind. Consequently, criminal liability presupposes the coexistence of a voluntary act (*actus reus*) and a culpable mental state (*mens rea*). Legal scholars have consistently argued that punishment is justified only when an offender possesses sufficient cognitive and volitional capacity to appreciate the nature and consequences of his or her conduct.[9] This principle forms the philosophical foundation of the insanity defense in almost every modern legal system.

A. Concept of Criminal Responsibility

The concept of criminal responsibility has evolved from moral philosophy, jurisprudence, and behavioral sciences. Early legal theorists such as Blackstone regarded criminal liability as inseparable from moral blameworthiness, emphasizing that individuals incapable of rational judgment should not be subjected to punishment. Contemporary criminal law continues to recognize that mental incapacity may negate the mental element necessary for criminal liability. Modern scholars therefore distinguish between legal responsibility and moral responsibility, observing that criminal courts are primarily concerned with determining whether an accused possessed sufficient cognitive ability to appreciate the legal consequences of his or her conduct at the time of the offence.[10]

B. Evolution of the Insanity Defence

The historical development of the insanity defense reflects society's gradual acceptance that mental illness may substantially impair criminal responsibility. Earlier legal systems frequently attributed abnormal behaviour to supernatural or religious causes, often resulting in severe punishment rather than medical treatment. The modern doctrine emerged through English common law and attained definitive legal formulation in M'Naghten's Case (1843)**,** where the House of Lords laid down the principle that a person is not criminally responsible if, owing to a disease of the mind, he or she was incapable of knowing the nature and quality of the act or of understanding that the act was wrong.[11] These principles subsequently became the foundation of Section 84 of the Indian Penal Code, 1860 and continue to influence Section 22 of the Bharatiya Nyaya Sanhita, 2023.

Indian legal scholarship generally agrees that the insanity defense under Indian criminal law is based upon the M'Naghten cognitive test rather than broader psychiatric concepts of mental illness. Consequently, Indian courts have consistently maintained that only legal insanity, and not every medical diagnosis of mental disorder, constitutes a valid defense to criminal liability. This distinction has significantly shaped judicial interpretation of criminal responsibility in India for more than one and a half centuries.[12]

C. Medical Insanity versus Legal Insanity

One of the most debated issues in criminal law literature concerns the distinction between **medical insanity** and **legal insanity**. Medical science recognizes a wide spectrum of psychiatric disorders, including schizophrenia, bipolar affective disorder, major depressive disorder, dementia, intellectual disability, and various neurocognitive conditions. However, the mere existence of a psychiatric diagnosis does not necessarily establish legal incapacity. Criminal law adopts a narrower approach by focusing upon the accuser's mental condition at the precise time of the commission of the offence and determining whether cognitive impairment was sufficiently severe to negate criminal responsibility.[13]

Indian courts have repeatedly emphasized this distinction while interpreting the insanity defence. Judicial decisions consistently hold that medical evidence is relevant but not conclusive. Instead, courts evaluate the entire factual matrix,

[8] Rights of Persons with Disabilities Act, No. 49 of 2016, India Code (2016); World Health Organization, *World Mental Health Report: Transforming Mental Health for All* (2022).
[9] Glanville Williams, *Textbook of Criminal Law* 17–42 (2d ed. 1983); K. D. Gaur, *Textbook on Indian Penal Code* 98–115 (8th ed. 2021).
[10] Jerome Hall, *General Principles of Criminal Law* 115–138 (2d ed. 1960); K. N. Chandrasekharan Pillai, *General Principles of Criminal Law* 214–230 (3d ed. 2018).
[11] *M'Naghten's Case*, (1843) 10 Cl. & Fin. 200, 8 Eng. Rep. 718 (H.L.).
[12] *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat*, AIR 1964 SC 1563; Bharatiya Nyaya Sanhita, No. 45 of 2023, § 22 (India).
[13] American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders* (5th ed., text rev. 2022); World Health Organization, *International Classification of Diseases 11th Revision (ICD-11)* (2019).

including the conduct of the accused before, during, and after the occurrence, motive, surrounding circumstances, and expert psychiatric testimony. Accordingly, forensic psychiatric evidence serves an advisory function, while the ultimate determination of criminal responsibility remains a judicial function.[14]

D. Development of Forensic Psychiatry and Forensic Psychology

The emergence of forensic psychiatry and forensic psychology has significantly influenced the modern administration of criminal justice. Forensic psychiatry applies psychiatric knowledge to legal questions such as criminal responsibility, competency to stand trial, fitness for interrogation, risk assessment, and treatment recommendations. Forensic psychology complements this role by examining cognitive functioning, behavioral assessment, personality evaluation, malingering, violence risk, eyewitness reliability, and psychological factors relevant to criminal behaviour.[15] Together, these disciplines facilitate evidence-based decision-making by assisting courts in understanding the relationship between mental illness and criminal conduct.

Recent literature emphasizes that multidisciplinary collaboration between judges, investigators, psychiatrists, psychologists, and correctional authorities is essential for ensuring fairness in criminal proceedings involving mentally ill offenders. Advances in psychological assessment, neuropsychology, behavioral science, and forensic interviewing have substantially improved the scientific evaluation of criminal responsibility. Nevertheless, scholars caution that expert evidence must remain objective, scientifically reliable, and legally relevant to avoid undue influence upon judicial decision-making.[16]

E. Indian and International Literature

Indian legal scholarship has primarily focused on judicial interpretation of Section 84 of the Indian Penal Code, the evidentiary burden upon the accused, and the distinction between legal and medical insanity. Most studies conclude that Indian courts have adopted a conservative interpretation of the insanity defense by insisting upon strict proof of cognitive incapacity at the time of the offence. While this approach protects against misuse of the defense, several scholars argue that it may inadequately accommodate contemporary psychiatric knowledge concerning severe mental disorders and fluctuating cognitive capacity.[17]

International literature adopts a broader interdisciplinary perspective by integrating constitutional law, neuroscience, psychiatry, forensic psychology, ethics, and human rights. Comparative research demonstrates increasing emphasis upon therapeutic jurisprudence, diversion programmes, mental health courts, supported decision-making, prison mental healthcare, and rehabilitation rather than purely punitive responses to mentally ill offenders. International human rights scholarship further argues that criminal justice systems should balance public safety with respect for autonomy, dignity, equality, and procedural fairness in accordance with the Convention on the Rights of Persons with Disabilities.[18]

RESEARCH GAP

The existing literature demonstrates substantial scholarly engagement with the insanity defense and criminal responsibility. However, several important gaps remain. First, most Indian studies continue to analyze Section 84 of the Indian Penal Code without examining the legal implications of its replacement by Section 22 of the Bharatiya Nyaya Sanhita, 2023**.** Consequently, there is limited contemporary scholarship evaluating the continuity and changes introduced under the new criminal law framework.

Secondly, previous research predominantly focuses upon judicial interpretation while paying comparatively little attention to the interaction between the Bharatiya Nyaya Sanhita, the Bharatiya Nagarik Suraksha Sanhita, the Bharatiya Sakshya Adhiniyam, the Mental Healthcare Act, 2017, and the Rights of Persons with Disabilities Act, 2016. A comprehensive socio-legal analysis integrating these statutes remains relatively absent.

Thirdly, the role of forensic psychiatry and forensic psychology in determining criminal responsibility has received inadequate legal attention despite growing scientific developments and increasing reliance upon expert testimony in criminal courts.

[14] *Hari Singh Gond v. State of Madhya Pradesh*, (2008) 16 SCC 109; *Surendra Mishra v. State of Jharkhand*, (2011) 11 SCC 495.
[15] Alan Goldstein, *Forensic Psychology* (4th ed. 2017); Richard Rosner, *Principles and Practice of Forensic Psychiatry* (3d ed. 2017).
[16] American Academy of Psychiatry and the Law, *Ethics Guidelines for the Practice of Forensic Psychiatry* (2005); American Psychological Association, *Specialty Guidelines for Forensic Psychology*, 68 Am. Psychologist 7 (2013).
[17] Ratanlal & Dhirajlal, *The Bharatiya Nyaya Sanhita* 165–181 (2024); K. I. Vibhute, *P. S. A. Pillai's Criminal Law* 392–407 (15th ed. 2022).
[18] Convention on the Rights of Persons with Disabilities arts. 12–14, Dec. 13, 2006, 2515 U.N.T.S. 3; World Health Organization, *World Mental Health Report: Transforming Mental Health for All* (2022).

Finally, limited research has examined the insanity defense through a constitutional and human rights perspective by integrating Article 21 jurisprudence, international disability rights, comparative criminal law, and contemporary forensic mental health practices. The present study seeks to address these deficiencies through an interdisciplinary socio-legal analysis of criminal responsibility under Section 22 of the Bharatiya Nyaya Sanhita, 2023.

RESEARCH OBJECTIVES

The present study seeks to critically examine the legal and constitutional dimensions of criminal responsibility in cases involving mental illness under the contemporary Indian criminal justice system. The specific objectives of the study are as follows:

1. To examine the historical evolution of the doctrine of criminal responsibility and the legal foundations of the insanity defence.
2. To analyse the scope and interpretation of Section 22 of the Bharatiya Nyaya Sanhita, 2023 (formerly Section 84 of the Indian Penal Code, 1860).
3. To distinguish between medical insanity and legal insanity and evaluate their relevance in criminal adjudication.
4. To critically examine the contribution of forensic psychiatry and forensic psychology in determining criminal responsibility.
5. To analyse the constitutional framework governing mentally ill offenders with reference to Articles 14, 20, 21 and 22 of the Constitution of India.
6. To evaluate judicial interpretation of the insanity defence by the Supreme Court and various High Courts.
7. To examine India's compliance with international human rights standards concerning mentally ill offenders.
8. To propose legal and institutional reforms for strengthening the administration of justice in cases involving mentally ill accused persons.

Research Questions

The present research seeks to answer the following questions:

1. What is the legal basis of criminal responsibility in Indian criminal law?
2. How has the insanity defence evolved from the M'Naghten Rules to Section 22 of the Bharatiya Nyaya Sanhita, 2023**?**
3. What is the distinction between medical insanity and legal insanity, and how is it applied by Indian courts?
4. What role do forensic psychiatry and forensic psychology play in determining criminal responsibility?
5. Whether the existing legal framework adequately protects the constitutional and human rights of mentally ill offenders?
6. What reforms are necessary to improve the fairness, scientific reliability, and effectiveness of the insanity defense in India?

RESEARCH METHODOLOGY

The present study adopts a doctrinal as well as socio-legal research methodology**.** The doctrinal component primarily examines constitutional provisions, statutory enactments, judicial precedents, law commission reports, parliamentary debates, and international legal instruments governing criminal responsibility and mental illness. Particular emphasis has been placed upon analysing Section 22 of the Bharatiya Nyaya Sanhita, 2023**,** its predecessor Section 84 of the Indian Penal Code, and related procedural provisions contained in the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Bharatiya Sakshya Adhiniyam, 2023.[19]

The socio-legal component of the study evaluates the practical operation of the insanity defense within the Indian criminal justice system. The research considers the interaction between criminal law, psychiatry, psychology, constitutional rights, human rights, policing, judicial decision-making, and correctional administration. Reports published by governmental agencies, the National Human Rights Commission, the World Health Organization, and forensic mental health literature have also been analyzed to understand the practical challenges associated with investigating and adjudicating offences committed by persons suffering from mental illness.[20]

[19] S. K. Verma & M. Afzal Wani, *Legal Research and Methodology* 45–67 (2d ed. Indian Law Institute 2001); Bharatiya Nyaya Sanhita, No. 45 of 2023, § 22 (India).
[20] National Human Rights Commission, *Quality Assurance in Mental Health* (2019); World Health Organization, *Mental Health Atlas 2020* (2021).

The study relies primarily upon secondary sources**,** including constitutional provisions, statutes, judicial decisions, books, peer-reviewed journals, official reports, Law Commission Reports, and international conventions. A comparative legal approach has also been adopted by examining the insanity defense in the United Kingdom, the United States, Canada, and Australia in order to identify best practices that may contribute to future reforms within the Indian criminal justice system.[21] The research adopts a descriptive, analytical, comparative, and critical approach. It not only explains the existing legal framework but also evaluates its constitutional validity, practical effectiveness, scientific adequacy, and consistency with international human rights standards. Accordingly, the study seeks to bridge the gap between criminal law, forensic mental health, and constitutional jurisprudence through an interdisciplinary socio-legal analysis.

VII. Evolution of Criminal Responsibility in India: From the M'Naghten Rules to Section 84 of the Indian Penal Code and Section 22 of the Bharatiya Nyaya Sanhita

The doctrine of criminal responsibility has undergone significant development throughout the history of criminal jurisprudence. Ancient legal systems generally imposed liability based upon the commission of prohibited acts, often without adequate consideration of the offender's mental condition. Over time, legal philosophy increasingly recognized that punishment should be imposed only where an individual possesses sufficient intellectual and moral capacity to appreciate the nature and consequences of his or her conduct. This evolution ultimately led to the modern principle that criminal liability depends upon both a wrongful act (*actus reus*) and a culpable mental state (*mens rea*).[22]

The most influential development in the law relating to insanity occurred through the decision of the House of Lords in M'Naghten's Case (1843)**.** Daniel M'Naghten, while suffering from severe delusions, mistakenly killed the secretary of the British Prime Minister believing him to be part of a conspiracy against him. Following widespread public debate, the House of Lords formulated what subsequently became known as the M'Naghten Rules**,** holding that an accused would be exempt from criminal responsibility if, owing to a defect of reason arising from disease of the mind, he or she either did not know the nature and quality of the act or did not know that the act was wrong.[23] These principles continue to constitute the foundation of insanity jurisprudence in many common law jurisdictions.

The framers of the Indian Penal Code, 1860**,** under the leadership of Lord Macaulay, incorporated these principles into Section 84 IPC**,** thereby establishing the statutory defense of legal insanity in India. The provision exempted a person from criminal liability where, at the time of committing the act, the individual was incapable of knowing the nature of the act or that the act was either wrong or contrary to law because of unsoundness of mind. Unlike medical science, which recognizes numerous psychiatric disorders, Section 84 adopted a narrow legal standard focusing exclusively upon cognitive incapacity at the time of the offence.[24]

Indian courts have consistently interpreted Section 84 as embodying the doctrine of legal insanity rather than medical insanity**.** In several landmark decisions, the Supreme Court has clarified that the existence of mental illness alone does not constitute a valid defense unless the accused demonstrates that the illness substantially impaired cognitive capacity during the commission of the offence. Consequently, the burden of establishing circumstances bringing the case within the statutory exception initially rests upon the accused, although the standard of proof is based upon the preponderance of probabilities rather than proof beyond reasonable doubt.[25]

The enactment of the Bharatiya Nyaya Sanhita, 2023 marks a significant legislative reform of Indian criminal law. While replacing the Indian Penal Code, the new legislation substantially retains the substantive principles governing criminal responsibility based upon mental incapacity. Section 22 of the Bharatiya Nyaya Sanhita, 2023 preserves the traditional insanity defense by continuing to exempt persons who, because of unsoundness of mind, are incapable of understanding the nature of their acts or recognizing that their conduct is wrong or contrary to law.[26] Accordingly, despite structural changes in India's criminal law framework, the essential legal doctrine governing criminal responsibility remains substantially unchanged.

[21] Richard Card et al., *Criminal Law* 723–741 (24th ed. Oxford Univ. Press 2022); Peter Bartlett & Ralph Sandland, *Mental Health Law* (4th ed. Oxford Univ. Press 2014).
[22] Jerome Hall, *General Principles of Criminal Law* 115–140 (2d ed. Bobbs-Merrill 1960); Glanville Williams, *Textbook of Criminal Law* 17–42 (2d ed. Stevens & Sons 1983).
[23] *M'Naghten's Case*, (1843) 10 Cl. & Fin. 200, 8 Eng. Rep. 718 (H.L.).
[24] Indian Penal Code, No. 45 of 1860, § 84 (repealed); Ratanlal & Dhirajlal, *The Indian Penal Code* 520–531 (36th ed. 2019).
[25] *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat*, AIR 1964 SC 1563; *Hari Singh Gond v. State of Madhya Pradesh*, (2008) 16 SCC 109.
[26] Bharatiya Nyaya Sanhita, No. 45 of 2023, § 22 (India).

However, the enactment of the Bharatiya Nyaya Sanhita should not be viewed merely as a continuation of colonial criminal law. The contemporary legal framework must now be interpreted alongside the Mental Healthcare Act, 2017**,** the Rights of Persons with Disabilities Act, 2016**,** the Bharatiya Nagarik Suraksha Sanhita, 2023**,** and the Bharatiya Sakshya Adhiniyam, 2023**,** as well as constitutional guarantees contained in Articles 14, 20, and 21 of the Constitution of India. These developments require courts to balance traditional criminal law principles with evolving constitutional values of dignity, equality, procedural fairness, autonomy, and access to mental healthcare.[27]

Thus, the evolution of criminal responsibility in India reflects a gradual transition from a purely punitive approach towards a more balanced legal framework that recognizes scientific understanding of mental illness while preserving the fundamental objectives of criminal justice. The continued application of the M'Naghten cognitive test under Section 22 of the Bharatiya Nyaya Sanhita demonstrates the enduring influence of classical criminal jurisprudence. Nevertheless, future legal development is likely to depend upon greater integration of constitutional principles, forensic mental health expertise, and international human rights standards to ensure that criminal responsibility is determined in a manner that is both legally sound and socially just.[28]

Section 22 of the Bharatiya Nyaya Sanhita, 2023: Legal Framework

The enactment of the Bharatiya Nyaya Sanhita, 2023 (BNS) marks a significant reform in Indian criminal law by replacing the Indian Penal Code, 1860 while substantially retaining many of its fundamental principles. One such principle is the doctrine of criminal irresponsibility arising from unsoundness of mind. The defense, formerly contained in Section 84 of the Indian Penal Code**,** has now been incorporated into Section 22 of the Bharatiya Nyaya Sanhita, 2023**,** thereby preserving the long-established common law doctrine derived from the M'Naghten Rules**.** Although the statutory language remains substantially similar, the contemporary application of Section 22 must now be interpreted in conjunction with constitutional guarantees, modern psychiatric knowledge, the Mental Healthcare Act, 2017, and other recent criminal law reforms.[29]

A. Historical Development

The legal recognition of mental incapacity as a defense to criminal liability has its origins in English common law. Prior to the nineteenth century, courts lacked a uniform standard for determining criminal responsibility in cases involving mental illness. The landmark decision in M'Naghten's Case (1843) established the cognitive test for insanity, requiring proof that the accused suffered from a defect of reason arising from a disease of the mind, rendering him incapable of understanding either the nature of the act or that the act was wrong.[30] These principles were subsequently incorporated into Section 84 of the Indian Penal Code, 1860 and continue to form the basis of Section 22 of the Bharatiya Nyaya Sanhita, 2023. Consequently, Indian criminal law has maintained continuity with classical common law principles while adapting them to contemporary constitutional and statutory developments.

B. Essential Ingredients of Section 22

Section 22 of the Bharatiya Nyaya Sanhita does not provide immunity merely because an accused suffers from mental illness. The provision requires the simultaneous existence of specific legal conditions before criminal liability can be excluded. First, the accused must have been suffering from unsoundness of mind at the time of the commission of the offence. Secondly, such mental condition must have rendered the accused incapable of understanding the nature and consequences of the act or of appreciating that the act was either wrong or contrary to law. Thirdly, the incapacity must exist at the very moment when the alleged offence was committed. Mental illness occurring before or after the occurrence, unless demonstrating the accused's mental state at the relevant time, does not by itself establish the defense.[31] Thus, the statutory focus remains upon cognitive incapacity rather than the mere existence of psychiatric illness.

C. Legal Insanity versus Medical Insanity

A fundamental principle governing the application of Section 22 is the distinction between medical insanity and legal insanity. Medical science recognizes numerous psychiatric disorders that may affect cognition, mood, behaviour, and perception. Conditions such as schizophrenia, bipolar disorder, psychotic depression, dementia, intellectual disability, epilepsy, and neuro-cognitive disorders are diagnosed according to recognized psychiatric classification systems. However,

[27] Mental Healthcare Act, No. 10 of 2017, India Code (2017); Rights of Persons with Disabilities Act, No. 49 of 2016, India Code (2016); INDIA CONST. arts. 14, 20 & 21.
[28] Convention on the Rights of Persons with Disabilities arts. 12–14, Dec. 13, 2006, 2515 U.N.T.S. 3; *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.
[29] Bharatiya Nyaya Sanhita, No. 45 of 2023, § 22 (India); Statement of Objects and Reasons, Bharatiya Nyaya Sanhita Bill, 2023.
[30] *M'Naghten's Case*, (1843) 10 Cl. & Fin. 200, 8 Eng. Rep. 718 (H.L.); Ratanlal & Dhirajlal, *The Bharatiya Nyaya Sanhita* 165–173 (2024).
[31] Bharatiya Nyaya Sanhita, No. 45 of 2023, § 22 (India); *Hari Singh Gond v. State of Madhya Pradesh*, (2008) 16 SCC 109.

the presence of such disorders does not automatically exempt an individual from criminal liability.[32] Indian criminal law adopts a significantly narrower standard. The decisive issue is whether the mental disorder deprived the accused of the cognitive capacity required under Section 22 at the precise time of the offence. Consequently, a person may suffer from serious psychiatric illness yet remain legally responsible if he or she retained sufficient understanding of the nature and wrongfulness of the act. Conversely, where psychiatric evidence establishes complete cognitive incapacity satisfying the statutory requirements, criminal liability may be excluded. The Supreme Court has repeatedly emphasized that legal insanity is a legal concept determined by judicial evaluation of evidence, whereas medical insanity is a clinical diagnosis determined by psychiatric expertise.[33]

D. Burden of Proof

The insanity defense constitutes a general exception to criminal liability. Under Indian criminal jurisprudence, the prosecution bears the primary burden of proving every essential ingredient of the offence beyond reasonable doubt. Nevertheless, where an accused invokes Section 22, the evidentiary burden shifts to the defense to establish circumstances bringing the case within the statutory exception. This burden, however, is considerably lower than the prosecution's burden because the accused need establish legal insanity only on the preponderance of probabilities rather than beyond reasonable doubt.[34]

The Supreme Court has clarified that the accused may discharge this burden through direct psychiatric evidence, medical records, expert testimony, witness statements, previous treatment history, surrounding circumstances, or the conduct of the accused before, during, and after the occurrence. Even where the accused fails to conclusively establish insanity, evidence raising a reasonable doubt regarding the existence of the requisite *mens rea* may still entitle the accused to an acquittal if the prosecution fails to establish criminal responsibility beyond reasonable doubt.[35]

E. Presumption of Sanity

Indian criminal law proceeds upon the general presumption that every individual possesses normal mental capacity and is therefore responsible for his or her actions. This presumption of sanity forms an essential principle of criminal adjudication because criminal responsibility constitutes the general rule, while insanity remains a limited statutory exception. Accordingly, courts presume that every accused person possesses sufficient mental capacity to understand the nature and consequences of his or her conduct unless convincing evidence demonstrates otherwise.[36]

The presumption of sanity does not operate as an irrefutable presumption. Where credible psychiatric evidence, treatment history, eyewitness testimony, or surrounding circumstances indicate severe mental incapacity, the court is required to evaluate the evidence objectively and determine whether the statutory conditions of Section 22 have been satisfied. This balanced approach protects society against misuse of the insanity defense while ensuring fairness to genuinely mentally ill offenders.

F. Evidentiary Standards under the Bharatiya Sakshya Adhiniyam, 2023

The Bharatiya Sakshya Adhiniyam, 2023 governs the admissibility and evaluation of evidence relating to criminal responsibility. Psychiatric experts, clinical psychologists, neurologists, and other specialized professionals may provide expert opinion regarding the mental condition of the accused. Nevertheless, expert evidence is advisory rather than conclusive. The ultimate determination of criminal responsibility remains exclusively within the jurisdiction of the court.[37] Courts evaluate expert testimony together with medical records, behavioral evidence, witness testimony, documentary evidence, previous psychiatric history, and the overall circumstances surrounding the occurrence. Modern forensic psychiatric assessment, psychological testing, neuropsychological evaluation, and clinical interviews significantly assist courts in determining whether the statutory requirements of Section 22 have been satisfied. However, judicial scrutiny remains essential because criminal responsibility involves legal rather than purely medical determination.

G. Relationship with the Mental Healthcare Act, 2017 and the Rights of Persons with Disabilities Act, 2016

The interpretation of Section 22 must also be harmonized with the Mental Healthcare Act, 2017 and the Rights of Persons with Disabilities Act, 2016**.** Although these statutes do not alter the substantive principles governing criminal responsibility,

[32] American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders* (5th ed., text rev. 2022); World Health Organization, *International Classification of Diseases 11th Revision (ICD-11)* (2019).
[33] *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat*, AIR 1964 SC 1563; *Surendra Mishra v. State of Jharkhand*, (2011) 11 SCC 495.
[34] Bharatiya Sakshya Adhiniyam, No. 47 of 2023 (India); *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat*, AIR 1964 SC 1563.
[35] *Shrikant Anandrao Bhosale v. State of Maharashtra*, (2002) 7 SCC 748; *State of Rajasthan v. Shera Ram*, (2012) 1 SCC 602.
[36] *Hari Singh Gond v. State of Madhya Pradesh*, (2008) 16 SCC 109; K. D. Gaur, *Textbook on Indian Penal Code* 112–118 (8th ed. 2021).
[37] Bharatiya Sakshya Adhiniyam, No. 47 of 2023 (India); *Murarilal v. State of Madhya Pradesh*, (1980) 1 SCC 704.

they reinforce the constitutional rights of persons with mental illness by recognizing dignity, equality, autonomy, informed consent, confidentiality, non-discrimination, and access to appropriate healthcare.[38] They therefore influence the manner in which mentally ill accused persons are investigated, examined, treated, and rehabilitated within the criminal justice system. The Mental Healthcare Act further recognizes that persons with mental illness are entitled to quality mental healthcare and humane treatment without discrimination. Similarly, the Rights of Persons with Disabilities Act promotes equal opportunity, legal capacity, and social inclusion for persons with psychosocial disabilities. These statutory protections require investigative agencies, prison authorities, courts, and correctional institutions to adopt procedures consistent with constitutional guarantees under Articles 14 and 21.[39]

Accordingly, Section 22 of the Bharatiya Nyaya Sanhita should not be interpreted in isolation. Its application must be informed by constitutional principles, contemporary psychiatric science, forensic psychology, evidentiary standards, and international human rights obligations. Such an integrated approach ensures that the insanity defense serves its dual objectives of protecting society while safeguarding the dignity, liberty, and fair trial rights of persons suffering from genuine mental illness.[40]

Judicial Interpretation of the Insanity Defence under Indian Criminal Law

The insanity defence under Indian criminal law has evolved primarily through judicial interpretation rather than legislative amendment. Although the language of the statutory provision has remained substantially unchanged from Section 84 of the Indian Penal Code, 1860 to Section 22 of the Bharatiya Nyaya Sanhita, 2023**,** the Supreme Court of India has played a decisive role in defining its scope, evidentiary requirements, and constitutional significance. Judicial decisions have consistently attempted to balance two competing objectives: protecting society from dangerous offenders while ensuring that individuals suffering from genuine mental incapacity are not subjected to criminal punishment contrary to the principles of justice and fairness.[41]

A. Evolution of the Insanity Defence

The evolution of the insanity defense in India reflects the gradual transition from a rigid common law doctrine to a more nuanced judicial understanding informed by constitutional values and scientific knowledge. The courts have consistently recognized that criminal responsibility depends upon the accuser's mental condition at the precise time of the commission of the offence rather than the mere existence of psychiatric illness. Consequently, Indian jurisprudence has maintained the distinction between legal insanity, which constitutes a valid criminal defense, and medical insanity, which by itself does not exclude criminal liability. This judicial approach preserves the cognitive test formulated in the M'Naghten Rules while permitting courts to consider contemporary psychiatric evidence in determining criminal responsibility. Despite significant developments in mental health science, Indian courts have continued to adhere to the principle that the decisive legal question concerns the accuser's ability to understand the nature and consequences of the act or to appreciate that the act was wrong or contrary to law.[42]

B. Landmark Supreme Court Decisions

The leading authority on the insanity defiance is Dahyabhai Chhaganbhai Thakkar v. State of Gujarat**,** in which the Supreme Court comprehensively explained the evidentiary principles governing Section 84 of the Indian Penal Code. The Court held that every accused is presumed to be sane until the contrary is established. However, once evidence capable of bringing the case within the statutory exception is produced, the accused is required to establish insanity only on the preponderance of probabilities**,** rather than beyond reasonable doubt. The Court further clarified that even if the accused fails to conclusively prove insanity, the evidence may nevertheless create reasonable doubt regarding the existence of the necessary *mens rea*, thereby entitling the accused to acquittal if the prosecution fails to discharge its burden. This decision continues to constitute the cornerstone of Indian insanity jurisprudence.[43]

The Supreme Court reaffirmed these principles in Hari Singh Gond v. State of Madhya Pradesh**,** where it emphasized that every mentally ill person is not necessarily legally insane. The Court observed that many individuals suffering from psychiatric disorders retain sufficient cognitive capacity to understand the nature and consequences of their actions. Consequently, criminal responsibility depends not upon the existence of mental illness but upon the degree of cognitive

[38] Mental Healthcare Act, No. 10 of 2017, India Code (2017); Rights of Persons with Disabilities Act, No. 49 of 2016, India Code (2016).
[39] INDIA CONST. arts. 14 & 21; *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.
[40] Convention on the Rights of Persons with Disabilities arts. 12–14, Dec. 13, 2006, 2515 U.N.T.S. 3; Mental Healthcare Act, No. 10 of 2017, India Code (2017).
[41] Bharatiya Nyaya Sanhita, No. 45 of 2023, § 22 (India); Indian Penal Code, No. 45 of 1860, § 84 (repealed).
[42] *M'Naghten's Case*, (1843) 10 Cl. & Fin. 200, 8 Eng. Rep. 718 (H.L.); K. N. Chandrasekharan Pillai, *General Principles of Criminal Law* 214–230 (3d ed. 2018).
[43] *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat*, AIR 1964 SC 1563.

impairment existing at the time of the commission of the offence. The judgment reiterated that the statutory defiance applies only where unsoundness of mind completely destroys the accuser's ability to understand the act or appreciate its legal or moral wrongfulness.[44]

Similarly, in Surendra Mishra v. State of Jharkhand**,** the Supreme Court held that evidence of previous psychiatric treatment or abnormal behaviour alone does not automatically establish the defence of insanity. The Court stressed that the crucial inquiry concerns the mental condition of the accused at the precise time when the offence was committed. Courts must therefore evaluate the totality of evidence, including medical records, eyewitness testimony, surrounding circumstances, motive, conduct before and after the occurrence, and expert psychiatric opinion before determining criminal responsibility. This decision further strengthened the distinction between medical diagnosis and legal incapacity.[45]

Another significant decision is Shrikant Anandrao Bhosale v. State of Maharashtra, wherein the Supreme Court accepted the insanity defiance after considering extensive evidence demonstrating the accuser's long history of schizophrenia, psychiatric treatment, irrational behaviour, and medical opinion. The Court observed that while expert evidence alone is not decisive, it acquires considerable significance when supported by surrounding circumstances and contemporaneous medical records. The judgment illustrates the judiciary's willingness to extend the benefit of the statutory defense where scientific evidence convincingly establishes cognitive incapacity at the relevant time. Likewise, in State of Rajasthan v. Shera Ram, the Court reiterated that every case must be decided upon its own facts and emphasized that courts should carefully evaluate both medical and circumstantial evidence before accepting or rejecting the insanity defense.[46]

C. Interpretation of Section 84 IPC and Section 22 of the Bharatiya Nyaya Sanhita

Although the Bharatiya Nyaya Sanhita, 2023 replaced the Indian Penal Code, the language and underlying principles governing the insanity defense have remained substantially unchanged. Consequently, judicial precedents interpreting Section 84 IPC continue to possess persuasive value while interpreting Section 22 BNS**.** The legislative continuity indicates that Parliament intended to preserve the established jurisprudence developed over more than a century rather than fundamentally altering the substantive law relating to criminal responsibility. Courts interpreting Section 22 are therefore expected to continue applying the principles laid down in *Dahyabhai Chhaganbhai Thakkar*, *Hari Singh Gond*, *Surendra Mishra*, *Shrikant Anandrao Bhosale*, and other authoritative decisions until new jurisprudence emerges under the Bharatiya Nyaya Sanhita. Accordingly, the transition from the Indian Penal Code to the Bharatiya Nyaya Sanhita represents legislative modernization rather than substantive alteration of the insanity defense.[47]

D. Role of Expert Psychiatric Evidence

Expert psychiatric evidence occupies an indispensable position in the adjudication of criminal responsibility involving mentally ill accused persons. Psychiatrists, clinical psychologists, neuropsychologists, and other mental health professionals assist courts by evaluating diagnosis, cognitive functioning, reality testing, intellectual capacity, decision-making ability, behavioral symptoms, treatment history, and the relationship between mental illness and the alleged offence. Nevertheless, Indian courts have consistently maintained that expert opinion is advisory rather than binding**.** The ultimate determination of criminal responsibility remains a judicial function requiring evaluation of expert evidence alongside witness testimony, documentary evidence, behavioral observations, medical records, motive, and surrounding circumstances.

Modern forensic psychiatric assessment increasingly incorporates structured clinical interviews, neuropsychological testing, psychological assessment, behavioral analysis, and internationally recognized diagnostic criteria contained in the DSM-5-TR and ICD-11**.** These scientific developments enhance the reliability of expert opinion while enabling courts to distinguish genuine mental illness from malingering or fabricated psychiatric symptoms. Accordingly, the effective administration of Section 22 of the Bharatiya Nyaya Sanhita requires close collaboration between the judiciary, investigating agencies, forensic psychiatrists, forensic psychologists, and correctional institutions to ensure that criminal responsibility is determined upon objective scientific evidence consistent with constitutional principles of fairness, dignity, and justice.

International Perspective

A comparative analysis of the insanity defense demonstrates that different jurisdictions have adopted varied approaches to criminal responsibility, mental illness, and forensic assessment. Although the Indian position under Section 22 of the Bharatiya Nyaya Sanhita, 2023 substantially follows the traditional M'Naghten cognitive test, other common law

[44] *Hari Singh Gond v. State of Madhya Pradesh*, (2008) 16 SCC 109.
[45] *Surendra Mishra v. State of Jharkhand*, (2011) 11 SCC 495.
[46] *Shrikant Anandrao Bhosale v. State of Maharashtra*, (2002) 7 SCC 748; *State of Rajasthan v. Shera Ram*, (2012) 1 SCC 602.
[47] Bharatiya Nyaya Sanhita, No. 45 of 2023, § 22 (India); Bharatiya Sakshya Adhiniyam, No. 47 of 2023 (India); American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders* (5th ed., text rev. 2022).

jurisdictions have introduced additional safeguards, broader standards, and specialized institutional mechanisms to address mentally ill offenders.

A. United Kingdom

The law relating to insanity in the United Kingdom continues to be historically rooted in the M'Naghten Rules**,** which require proof that the accused was suffering from a defect of reason arising from disease of the mind and was thereby incapable of knowing the nature and quality of the act or that the act was wrong. However, the United Kingdom has also developed related doctrines such as diminished responsibility and unfitness to plead, particularly in homicide cases, thereby allowing courts to recognize varying degrees of mental impairment rather than applying an all-or-nothing model of criminal responsibility. The Mental Health Act 1983 further enables courts to order hospitalization, treatment, and supervision where mental disorder is established.[48]

B. United States

The United States does not follow a single uniform insanity standard because criminal law is largely governed by federal and state jurisdictions. Historically, American courts have applied different tests, including the M'Naghten test, the irresistible impulse test, the Durham product test, and the Model Penal Code test. After the attempted assassination of President Ronald Reagan and the trial of John Hinckley Jr., several jurisdictions narrowed the scope of the insanity defense and strengthened the burden upon the accused. The American experience demonstrates the tension between public safety, political reaction, psychiatric knowledge, and the rights of mentally ill accused persons.[49]

C. Canada

Canada adopts a more structured statutory approach through the concept of Not Criminally Responsible on Account of Mental Disorder (NCRMD) under the Criminal Code. Canadian law recognizes that an accused is not criminally responsible if, at the time of the act, mental disorder rendered the person incapable of appreciating the nature and quality of the act or of knowing that it was wrong. Unlike traditional punitive models, Canada has developed specialized review boards that determine whether the accused should be absolutely discharged, conditionally discharged, or detained in a hospital. This model reflects a therapeutic and risk-management approach that balances public safety with rehabilitation and individual liberty.[50]

D. Australia

Australia also recognizes mental impairment as a defense to criminal responsibility, though the precise legal standards vary across States and Territories. Australian jurisdictions generally focus upon whether mental impairment deprived the accused of the capacity to understand the nature of the conduct, know that the conduct was wrong, or control the conduct according to law. Several jurisdictions have established forensic mental health procedures involving psychiatric assessment, mental health tribunals, supervision orders, and treatment-based responses. The Australian approach therefore demonstrates the importance of integrating criminal adjudication with forensic mental healthcare, rehabilitation, and independent oversight.[51]

Comparative analysis reveals that India shares a common historical foundation with other common law jurisdictions but continues to rely primarily upon the narrow cognitive test inherited from the M'Naghten Rules. While Section 22 of the Bharatiya Nyaya Sanhita preserves doctrinal continuity, India may benefit from comparative reforms such as specialized forensic mental health boards, structured psychiatric assessment protocols, mental health courts, conditional discharge mechanisms, periodic review of mentally ill offenders, and closer integration between criminal courts and mental healthcare institutions.

Socio-Legal Challenges

Despite the existence of a statutory defense under Section 22 of the Bharatiya Nyaya Sanhita, 2023, the practical administration of justice in cases involving mentally ill accused people remains affected by several socio-legal challenges. The insanity defense operates at the intersection of criminal law, psychiatry, psychology, policing, prison administration, and human rights. Therefore, its effectiveness depends not only upon the wording of the statute but also upon the institutional capacity of the justice system to identify, assess, protect, and rehabilitate persons suffering from genuine mental illness. One of the most serious challenges is the stigma associated with mental illness. In many criminal cases, mental illness is ignored, misunderstood, or treated as a sign of moral weakness or dangerousness. Families may conceal

[48] *M'Naghten's Case*, (1843) 10 Cl. & Fin. 200, 8 Eng. Rep. 718 (H.L.); Mental Health Act 1983, c. 20 (U.K.).
[49] *Hinckley v. United States*, 672 F.2d 115 (D.C. Cir. 1982); Insanity Defense Reform Act of 1984, 18 U.S.C. § 17.
[50] Criminal Code, R.S.C. 1985, c. C-46, § 16 (Can.); *Winko v. British Columbia (Forensic Psychiatric Institute)*, [1999] 2 S.C.R. 625 (Can.).
[51] Criminal Code Act 1995 (Cth) s 7.3 (Austl.); *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* (NSW) (Austl.).

psychiatric history because of fear of social disgrace, while investigating agencies may fail to recognize symptoms of psychosis, intellectual disability, severe depression, or neuro-cognitive impairment. Such stigma affects the accuser's ability to obtain timely treatment, produce relevant medical records, and raise the defense of unsoundness of mind at the appropriate stage of the criminal proceedings.[52]

Another major difficulty is the delay in psychiatric assessment**.** The mental condition of the accused at the time of the offence is the central requirement under Section 22, yet psychiatric evaluation is often conducted much later, when symptoms may have changed due to medication, custody, stress, or passage of time. This delay weakens the evidentiary value of psychiatric opinion and makes it difficult for courts to reconstruct the accuser's mental state at the relevant time. Early forensic assessment, preservation of medical history, and prompt referral to qualified mental health professionals are therefore essential for fair adjudication.

The shortage of forensic psychiatrists, clinical psychologists, and specialized forensic mental health institutions further affects the quality of criminal responsibility evaluations. Many districts lack trained professionals capable of conducting structured forensic assessments. General psychiatric examination may identify diagnosis but may not adequately address legal questions such as capacity to know the nature of the act, appreciation of wrongfulness, malingering, risk assessment, and fitness to stand trial. This shortage creates dependence on incomplete medical reports and increases the possibility of inconsistent judicial outcomes.[53]

Prison mental healthcare is another serious concern. A significant number of under trial prisoners and convicts suffer from mental health problems, yet prison systems often lack adequate psychiatric services, psychological counselling, suicide prevention programmers, and rehabilitation facilities. Mentally ill prisoners may remain unidentified for long periods and may be subjected to isolation, disciplinary punishment, or neglect instead of treatment. Such conditions raise serious concerns under Articles 14 and 21 of the Constitution, because incarceration does not extinguish the right to dignity, healthcare, and humane treatment.

Police investigation also plays a crucial role in cases involving mental illness. Investigating officers are usually the first state actors to observe the behaviour of the accused after the incident. However, lack of training in mental health may lead to improper interrogation, failure to collect psychiatric history, non-seizure of treatment records, and omission to record abnormal behaviour of the accused. In cases where the accused appears confused, delusional, disoriented, suicidal, or incapable of meaningful communication, immediate medical examination and legal safeguards should be ensured. Without such precautions, the fairness of investigation and trial may be seriously compromised.[54]

Judicial misconceptions also affect the practical application of the insanity defense. Courts sometimes equate mental illness with total madness or visible irrationality and may overlook fluctuating psychiatric conditions where the accused appears normal during trial but was severely impaired at the time of the offence. Conversely, exaggerated or unsupported claims of insanity may create judicial suspicion and lead to overly restrictive interpretation. The proper approach requires courts to distinguish carefully between genuine mental incapacity, ordinary emotional disturbance, intoxication, motive-based crime, and malingering. The misuse of the insanity defense is often discussed as a concern in criminal trials. While false claims cannot be ignored, empirical experience suggests that the defiance is difficult to prove and is accepted only in limited cases. The real challenge is therefore to prevent misuse without denying protection to genuinely mentally ill offenders. This requires scientific forensic assessment, careful scrutiny of conduct before and after the offence, review of medical records, and independent expert testimony.

Finally, the rights of mentally ill offenders require stronger protection throughout investigation, trial, sentencing, detention, treatment, and rehabilitation. Persons suffering from mental illness are entitled to dignity, legal aid, fair trial, access to healthcare, protection from cruel or degrading treatment, and reasonable accommodation. The Mental Healthcare Act, 2017 and the Rights of Persons with Disabilities Act, 2016 reinforce these protections by recognising mental healthcare, equality, non-discrimination, and community-based rehabilitation as important legal entitlements.[55] Therefore, the criminal justice system must adopt a rights-based and treatment-oriented approach rather than a purely punitive response.

[52] World Health Organization, *World Mental Health Report: Transforming Mental Health for All* (2022); National Human Rights Commission, *Quality Assurance in Mental Health* (2019)
[53] National Institute of Mental Health and Neurosciences, *National Mental Health Survey of India 2015–16* (2016); World Health Organization, *Mental Health Atlas 2020* (2021).
[54] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023 (India); INDIA CONST. arts. 20, 21 & 22.
[55] Mental Healthcare Act, No. 10 of 2017, India Code (2017); Rights of Persons with Disabilities Act, No. 49 of 2016, India Code (2016); Convention on the Rights of Persons with Disabilities arts. 12–14, Dec. 13, 2006, 2515 U.N.T.S. 3.

RECOMMENDATIONS

The foregoing analysis demonstrates that although Section 22 of the Bharatiya Nyaya Sanhita, 2023 provides a sound legal foundation for the insanity defense, its practical implementation requires significant legislative, institutional, and administrative reforms. The following recommendations are proposed to strengthen the fairness, scientific reliability, and constitutional legitimacy of the criminal justice system in cases involving mentally ill offenders.

First**,** specialized Forensic Mental Health Assessment Centers should be established at the regional or State level. These centers should comprise multidisciplinary teams consisting of forensic psychiatrists, forensic psychologists, clinical psychologists, neurologists, psychiatric social workers, and legal experts. Standardized protocols for criminal responsibility assessment, fitness to stand trial, malingering detection, violence risk assessment, and rehabilitation planning should be developed to ensure consistency in expert opinion throughout the country.[56]

Secondly**,** greater emphasis should be placed upon capacity building and specialized training for police officers, prosecutors, judges, prison officials, and legal aid lawyers. Training programmes should include identification of psychiatric symptoms, interviewing vulnerable persons, preservation of psychiatric evidence, constitutional safeguards, forensic mental health principles, and the legal requirements of Section 22 of the Bharatiya Nyaya Sanhita. Such programmes would minimize investigative errors and improve judicial appreciation of expert psychiatric evidence.

Thirdly**,** psychiatric assessment should be conducted at the earliest possible stage of criminal investigation wherever the behaviour or medical history of the accused raises reasonable suspicion regarding mental illness. Timely examination preserves valuable clinical evidence concerning the accused's mental condition at the time of the offence and enhances the reliability of subsequent judicial determination. Digital preservation of treatment records and improved coordination between hospitals, investigating agencies, and courts should also be encouraged.

Fourthly**,** prison mental healthcare requires urgent strengthening. Every correctional institution should provide regular psychiatric consultation, psychological counselling, suicide prevention services, rehabilitation programmes, and periodic mental health screening. Persons suffering from severe mental illness should receive treatment in specialised psychiatric facilities whenever clinically necessary rather than remaining in ordinary prison environments. Community reintegration and post-release rehabilitation should also form an integral part of correctional policy.[57]

Finally**,** future legislative and judicial reforms should adopt a human rights-oriented approach by harmonising the Bharatiya Nyaya Sanhita with the Mental Healthcare Act, 2017, the Rights of Persons with Disabilities Act, 2016, constitutional guarantees under Articles 14 and 21, and India's obligations under the Convention on the Rights of Persons with Disabilities. Greater emphasis upon dignity, autonomy, supported decision-making, procedural fairness, and scientific assessment will strengthen public confidence while ensuring that mentally ill offenders receive justice consistent with constitutional values.

CONCLUSION

The relationship between mental illness and criminal responsibility remains one of the most complex issues confronting modern criminal jurisprudence. Criminal law seeks to protect society through punishment of offenders, yet constitutional justice equally demands that individuals who lack the mental capacity to appreciate the nature or wrongfulness of their conduct should not be subjected to criminal punishment in the same manner as persons possessing full cognitive ability. The insanity defense therefore represents an important legal mechanism for reconciling public safety with principles of fairness, morality, and human dignity. This study demonstrates that the transition from Section 84 of the Indian Penal Code, 1860 to Section 22 of the Bharatiya Nyaya Sanhita, 2023 has preserved the essential principles governing legal insanity while placing them within a broader constitutional and statutory framework. The continued reliance upon the M'Naghten cognitive test reflects the enduring influence of common law, whereas the Mental Healthcare Act, 2017, the Rights of Persons with Disabilities Act, 2016, and recent constitutional jurisprudence increasingly emphasize dignity, autonomy, equality, and access to mental healthcare. Consequently, criminal responsibility in contemporary India can no longer be viewed exclusively through the traditional lens of criminal law but must also incorporate developments in psychiatry, forensic psychology, constitutional law, and international human rights. The study further reveals that despite a relatively well-developed legal framework, significant socio-legal challenges continue to impede the effective administration of

[56] Bharatiya Nyaya Sanhita, No. 45 of 2023, § 22 (India); American Academy of Psychiatry and the Law, *Ethics Guidelines for the Practice of Forensic Psychiatry* (2005).
[57] Mental Healthcare Act, No. 10 of 2017, India Code (2017); National Human Rights Commission, *Quality Assurance in Mental Health* (2019).

justice. Social stigma, inadequate forensic mental health infrastructure, delays in psychiatric assessment, shortage of trained professionals, limited prison mental healthcare, and inconsistent appreciation of expert evidence frequently prevent genuine mentally ill offenders from receiving fair treatment. Addressing these deficiencies requires coordinated action involving the legislature, judiciary, executive, medical professionals, forensic experts, correctional institutions, and civil society.

Comparative analysis indicates that jurisdictions such as the United Kingdom, the United States, Canada, and Australia have increasingly adopted multidisciplinary approaches combining criminal law with forensic psychiatry, specialized review mechanisms, community-based treatment, and structured rehabilitation. India may similarly benefit from specialized forensic mental health services, standardized assessment protocols, improved institutional coordination, and greater judicial reliance upon scientifically validated expert evidence.

In conclusion, Section 22 of the Bharatiya Nyaya Sanhita, 2023 represents not merely a statutory defense but an expression of the constitutional commitment to justice, equality, and human dignity. Its future effectiveness will depend upon scientifically informed investigation, objective psychiatric evaluation, fair judicial interpretation, and sustained implementation of rights-based mental healthcare policies. Only through such an integrated and multidisciplinary approach can the Indian criminal justice system ensure that mentally ill offenders are treated in accordance with constitutional morality, international human rights standards, and the fundamental ideals of justice.[58]

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