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Legally Insane: Rethinking India's Insanity Defence through U.S. Experience

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ABSTRACT

This paper explores the insanity defense in criminal law, focusing on India and the United States. In India, the defense under Section 84 of the Indian Penal Code (IPC) and now the Section 22 of the Bharatiya Nyay Sanhita (BNS) follows the M'Naghten Rule, which is limited to cognitive incapacity and fails to address the complexities of mental illness. In contrast, the United States incorporates both cognitive and volitional elements of mental disorders through the Model Penal Code, offering a more nuanced approach. The paper argues that India's reliance on the outdated M'Naghten Rule should be reformed to align with contemporary psychiatric insights. A hypothetical case of Atul, diagnosed with paranoid schizophrenia, illustrates the shortcomings of the current framework.

Keywords: Insanity, M'Naghten Rule, Volitional Incapacity, MPC Test

I. INTRODUCTION

The insanity defense occupies a complex intersection of criminal law, philosophy, and psychiatry.[2] It challenges a foundational principle of criminal liability: the requirement of *mens rea*, or a guilty mind.[3] The premise is based on key criminal law principles: *actus non facit reum nisi mens sit rea* (no guilt without intent) and *furiosi nulla voluntas est* (the insane lack free will).[4] Thus, an insane person cannot be held criminally liable.

This idea has existed for centuries, with various terms used to characterize the mental capacity of individuals to excuse them from criminal responsibility.[5] However, defining and determining "insanity" within a legal framework has proven difficult.[6] There is no single, universally accepted standard of insanity.[7] Medical science views insanity as a synonym for an abnormal state of mind, including involuntary impulses.[8] Whereas, legal definitions are narrower,

[1] Author is a student at National Law School of India University (NLSIU), Bengaluru, India.
[2] Ashley H VanDercar and Phillip J Resnick, 'The Insanity Defense: Historical Precedent and Modern Application' (2018) 48(2) *Psychiatric Annals* 95–101.
[3] Saumya, 'Insanity: A Real Defense or a Loophole?' (JudicateMe, 4 September 2020) <https://judicateme.com/insanity-a-real-defense-or-a-loophole/>.
[4] Kostub Singla, 'A Perpetual Dilemma of Insanity as a Defense' (2021) 3 *Indian JL & Legal Rsch* 1.
[5] T V Asokan, 'The Insanity Defense: Related Issues' (2016) 58(Suppl 2) *Indian Journal of Psychiatry* S191–S198 ("Asokan").
[6] Goutham Paluru, 'Insanity Defense: A Loophole for Criminals' (2023) 5 I*ndian J L & Legal Rsch* 1.
[7] ibid.
[8] Sankalp Vijay & Shubham Mudgil, 'Mens Rea Absenteeism in the Defense of Insanity: A Medico-Legal Analysis'

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focusing on the individual's cognitive ability to understand the nature and wrongfulness of their actions at the time of the offense.[9]

The dominant standard in many jurisdictions, including India, is the M'Naghten Rule. Developed in 19th-century England, it emphasizes cognitive incapacity–whether the accused understood the nature or wrongfulness of their act.[10] India's version, codified in Section 84 of the IPC and now Section 22 of the BNS, mirrors this rule. In contrast, the United States has seen greater legal evolution, with several states adopting the Model Penal Code (MPC) test, which accounts for both cognitive and volitional impairments.

In this paper, I critically examine the insanity defense in India and the United States through a comparative lens. I argue, *first*, that India's continued reliance on the M'Naghten Rule reflects a rigid and outdated legal standard that focuses narrowly on cognitive incapacity, failing to capture the complexities of mental illness. *Second*, I highlight how the United States adopts a more progressive and nuanced approach by incorporating both cognitive and volitional elements of mental disorder. *Finally*, I contend that India's legal framework should be reformed to reflect contemporary psychiatric insights, drawing important lessons from the American experience.

To ground our analysis, consider this hypothetical, which I will return to at relevant junctures - Atul, a 32-year-old engineer residing in Delhi, has been suffering from paranoid schizophrenia for several years. His condition is medically diagnosed and has involved recurring episodes of intense delusions and hallucinations. One day, while in a state of delusion, Atul became convinced that his neighbour, Ravi, was a government spy plotting to kill him and his family. Believing this to be true, and under the compulsion of this false belief, Atul went to Ravi's house and fatally attacked him. Atul has been arrested and charged with murder. His defense pleads insanity, arguing that his psychosis rendered him incapable of understanding the true nature of his actions or knowing that what he was doing was wFrom the narrow confines of M'Naghten to the more holistic ALI standard and back again, the pendulum reflects an ongoing debate about how best to define legal insanity. This evolution makes a compelling case for reinstating volitional incapacity as a necessary element. rong.

II. ISSUES IN THE INDIAN FRAMEWORK: TRAPPED IN THE M'NAGHTEN MINDSET

The Indian legal framework for the defence of insanity is primarily rooted in the M'Naghten

(2019) 10 *Supremo Amicus* 229.

[9] ibid.

[10] Leah Tharakan, 'Are You (Legally) Insane?' (2024) *Texas Undergraduate Law Journal* <https://www.texasulj.org/post/are-you-legally-insane>.

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Rules, set out by Tindal, C.J.[11] They can be summarised as follows:[12] - (i) an accused is presumed sane unless proven otherwise, (ii) to claim insanity, it must be shown that, at the time of offence, due to mental illness, the accused either didn't understand the nature of the act or didn't know it was wrong, (iii) if the accused knew the act was wrong and illegal, they are liable, (iv) if suffering from a partial delusion, the accused is judged as if the delusional belief were true. So the primary focus is on a cognitive test of insanity - not a volitional one, like irresistible impulses.[13] In *Kanna Kunnummal Ammed Koya v. State of Kerala (1967)*,[14] the court emphasized that exemption under Section 84 IPC requires proving that the accused was, at the time of the act, incapable of judging the wrongfulness or illegality of the act.

Based on these rules is Section 84 of IPC,[15] or now Section 22 of BNS. The new section substitutes the term "unsoundness of mind" with "mental illness" but retains similar essential criteria. It states "*Nothing is an offence which is done by a person who, at the time of doing it, by reason of mental illness, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.*"[16] It requires two prongs to be met for the insanity defence to succeed.[17] First, the accused must have been 'of unsound mind' (now 'mentally ill') at the time of the offence (medical insanity).[18] Second, this must have made them incapable of understanding the nature of the act, or that it was wrong or contrary to law (legal insanity).[19] Legal insanity may be shown in one of three ways: (a) lack of understanding of the act (cognitive incapacity), (b) lack of awareness that it was morally wrong (moral incapacity), or (c) lack of awareness that it was illegal.[20] The second prong sets the legal threshold for the defence.[21] Let us call it the two-prong test. I will return to it later.

McNaughton's rules, on which this section is based, have been criticized for their ambiguity, uncertainty, and procedural shortcomings.[22] Professor Sheldon Glueck opined that the rules

[11] R v. Daniel M'Naghten (1843) 8 E.R. 718.
[12] KM Sharma, 'Defense of insanity in Indian criminal law' (1965) 7 JILI 325.
[13] Ashwinkumar A, 'Judicial Approach on Plea of Insanity in India' (Legal Service India, 5 July 2020) <http://www.legalserviceindia.com/legal/article-3098-judicial-approach-on-plea-of-insanity-in-india.html>.
[14] Kanna Kunnummal Ammed Koya v. State of Kerala AIR 1967 KERALA 92.
[15] Section 84 of IPC laid down "*Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law*."
[16] Bharatiya Nyaya Sanhita 2023, s 22.
[17] Soumya A K, Maitreyi Misra and Anup Surendranath, 'Shapeshifting and Erroneous: The Many Inconsistencies in the Insanity Defence in India' (2021) 14 NUJS L Rev 195 ("Saumya")..
[18] ibid.
[19] ibid.
[20] ibid.
[21] ibid.
[22] Ali Ajmal, Faiza Rasool and Farooq Umair Niazi, 'Evolution of Modern Insanity Defense: A Critical Review' (2023) 4(4) *Annals of Human and Social Sciences.*

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wrongly assume that lack of knowledge is the only or most important sign of insanity, and that knowledge alone controls behavior.[23] This ignores emotional or volitional impairments.[24] As a result, a person can be mentally disordered but still legally sane if they can intellectually distinguish right from wrong.[25] Therefore, simple cognition, a thin version of instrumental rationality, should be insufficient on its own for determining sanity.[26]

Medical Insanity v. Legal Insanity - The Volitional Gap

Not every person suffering from a mental illness is *ipso facto* exempt from criminal liability, because legal insanity is different from medical insanity.[27] Medical science says any mental abnormality, such as schizophrenia, bipolar disorder, or severe depression, may qualify as insanity.[28] But under criminal law, only those whose mental condition completely impairs, at the time of offence, their capacity to understand the act or its wrongfulness are considered legally insane.[29] This narrow standard can result in unfair outcomes, as many individuals who are medically insane (experiencing hallucinations, delusions, or impaired impulse control) do not meet the legal threshold, even though their condition severely affects their behavior and responsibility.[30] For example, in *Surendra Mishra v. State of Jharkhand (2011)*,[31] the accused cited mental illness and submitted old medical records, but the Court found these too remote and pointed to his conduct—fleeing and hiding the weapon—as proof of awareness. The Court held that Section 84 IPC requires total cognitive incapacity at the time of the offence, not just a history of mental illness.[32] This reflects how the law often excludes those with serious yet not fully incapacitating conditions.

Furthermore, exclusion of volitional incapacity is also problematic. One of the essential elements of criminal liability is the existence of free will.[33] Without free will (like in a state of compulsion), no crime is said to occur.[34] When this compulsion stems from a diseased mental

[23] Sheldon Glueck, 'Psychiatry and the Criminal Law' (1928) 12 Mental Hygiene 575, 580, quoted in Durham v United States 214 F.2d 862, 871 (DC Cir 1954).
[24] ibid.
[25] ibid.
[26] Theodore Y Blumoff, 'Rationality, Insanity, and the Insanity Defense: Reflections on the Limits of Reason' (2015) 39 Law & Psychol Rev 161.
[27] Surendra Mishra vs State Of Jharkhand AIR 2011 SUPREME COURT 627 ("Surendra Mishra")..
[28] Simon Hoefling, 'The Insanity Defense and Psychiatry: The Advantage of a Cognitive Approach' (Bellarmine Law Society Rev, Vol 13, Issue 2, Article 3).
[29] ibid.
[30] Luca Malatesti, Marko Jurjako and Gerben Meynen, 'The Insanity Defence Without Mental Illness? Some Considerations' (2020) 71 Int J Law Psychiatry 101571.
[31] Surendra Mishara (n 28).
[32] ibid.
[33] Sankalp Vijay and Shubham Mudgil, 'Mens Rea Absenteeism in the Defense of Insanity: A Medico-Legal Analysis' (2019) 10 Supremo Amicus 229.
[34] ibid.

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condition that affects a person's emotions and will, it is referred to as an irresistible or uncontrollable impulse, and is generally considered a component of the law relating to insanity.[35] Mental illness experts argue that insanity does not only impair a person's cognitive or intellectual faculties, but also affects the entire personality, including their will and emotions.[36] Hence, a person suffering from mental illness may be fully aware of the nature and wrongfulness of their act under the law, yet still commit it due to the influence of their condition.[37] This gap fails to encompass the full spectrum of mental health issues recognized in contemporary psychiatry.[38] A classic example is - kleptomania. Individuals with kleptomania recognize that stealing is wrong, yet they experience an uncontrollable urge to steal.[39] Despite this, under current Indian law, such individuals may not qualify for the insanity defense because they possess the cognitive ability to distinguish right from wrong.

Returning to our hypothetical: under the current framework, even with clear medical evidence of paranoid schizophrenia and Atul's delusional belief that his neighbour was a spy, the court may infer awareness of wrongdoing from post-offence conduct, such as fleeing or concealing the weapon. This approach overlooks the episodic and overpowering nature of delusions, focusing narrowly on cognitive understanding while ignoring volitional impairments. As a result, Atul could be held criminally responsible despite lacking genuine control over his actions, exposing the inherent unfairness of a test that excludes impairments of will and relies solely on cognitive incapacity.

This has indeed happened. For example, in *State of Madhya Pradesh v. Ahmadullah (1961)*,[40] the accused, who had a history of epilepsy, killed his mother-in-law. Although medical evidence showed his mental illness, the court ruled that the defense was unavailable due to the lack of contemporaneous evidence proving that he was of unsound mind at the time of the crime.[41] Similarly, in *Sudhakaran v. State of Kerala (2010)*,[42] despite clear medical records indicating a history of mental illness, the court rejected the defense because the accused's actions, such as fleeing the scene and hiding the weapon, suggested awareness of the act, implying cognitive capacity. This strict interpretation of behavior to infer cognitive capacity, while potentially

[35] ibid.
[36] Law Commission of India, *42nd Report on the Indian Penal Code* (Law Com No 42, 1971) ("LCI Report").
[37] ibid.
[38] ibid.
[39] Cleveland Clinic, 'Kleptomania: What It Is, Causes, Symptoms & Treatment' (Cleveland Clinic, 8 August 2016) <https://my.clevelandclinic.org/health/diseases/9878-kleptomania>.
[40] State of Madhya Pradesh v. Ahmadullah 1961 AIR 998.
[41] ibid.
[42] Sudhakaran v. State of Kerala AIR 2011 SUPREME COURT 265.

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sidelining volitional impairment is unfair.[43] Furthermore, in *Jai Lal v. Delhi Administration (1969)*,[44] the court denied the insanity, relying on the accused's ability to attend office and perform his duties in a "normal" manner, concluding that he could distinguish between right and wrong even at his most excited moments. This approach reflects biases against individuals with mental illnesses, assuming that their ability to manage everyday tasks directly correlates with cognitive capacity.

Inadvertent inclusion of Volition Incapacity

While Section 84 itself focuses on cognition, the courts have sometimes inadvertently referred to volitional incapacity when determining legal insanity.[45] Consider these examples. In *Hazara Singh v. State of Punjab (1957)*,[46] the court observed that immunity under Section 84 requires a mental disorder that obliterates both perceptual and volitional faculties, thus implying a broader threshold. Similarly, in *Shama Tudu v. State of Odisha (1986)*,[47] it was held that Section 84 applies to those who, due to unsoundness of mind, are deprived of self-control and moral judgment, reflecting a volitional standard. In *Madhavan v. State of Kerala (1992)*,[48] the Court emphasized that the disorder must destroy volitional capacity, reinforcing a dual cognitive-volitional approach. In *Aravindakshan Pillai v. State of Kerala (1988*),[49] although the court rejected defenses based on emotional imbalance or feeble-mindedness, it acknowledged that legal insanity requires a loss of volitional control, thereby indirectly introducing the volitional element. *In Keshaorao Bhiosanji Navale v. State of Maharashtra (1969)*,[50] the court interpreted "capacity" as the inability to make rational moral judgments, referencing automatism and absence of responsibility - concepts closely linked to volition. Lastly, *in Hussain v. State of Kerala (1999)*,[51] the court recognized that mental disorders may affect both cognition and volition, suggesting a more nuanced understanding of insanity. These cases illustrate that judicial interpretations have, at times, extended beyond the text of Section 84 to consider volitional incapacity. This complicates the doctrinal clarity of the defense and leads to inconsistency.

[43] Saumya (n 18).
[44] Jai Lal v. Delhi Administration 1969 AIR 15.
[45] Saumya (n 18).
[46] Hazara Singh v State of Punjab AIR 1958 P&H 104.
[47] Shama Tudu v State of Odisha, (1986) I OLR 536.
[48] Kuzhiyaramadiyil Madhavan v State of Kerala, (1994) Cri LJ 450.
[49] Aravindakshan Pillai v State of Kerala, (1988) 2 KLT 990.
[50] Keshaorao Bhiosanji Navale v State of Maharashtra, (1978) Cri LJ 153.
[51] Hussain v State of Kerala, AIR 1999 SC 734.

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The Collapse of the Two-Pronged Test

Now let me go back to the two-prong test. The two-pronged test for legal insanity is often misapplied, with courts blurring the distinction between medical and legal insanity.[52] Courts tend to establish medical insanity and then assume legal insanity, without properly examining whether the accused was incapable of understanding the nature or wrongfulness of their actions.[53] This undermines the second prong (legal insanity), leaving it inadequately tested.[54] In *Shrikant Anandrao Bhosale v. State of Maharashtra (2003)*,[55] the court inferred legal insanity based solely on the presence of paranoid schizophrenia, without assessing incapacity at the time of the offense. Similarly, in *Devidas Loka Rathod v. State of Maharashtra (2018)*,[56] the court did not investigate whether the accused's psychosis caused incapacity. In *Surendra Mishra v. State of Jharkhand* (2011),[57] the court presumed the accused's mental fitness based on his ability to run a medical shop, highlighting a tendency to rely on selective facts rather than comprehensive analysis. This subjective approach compromises the integrity of the legal insanity defense and adds to the inconsistency.

III. EVOLUTION OF THE INSANITY DEFENSE: THE AMERICAN EXPERIENCE

The evolution of the insanity defense in the United States reflects a persistent struggle to reconcile the moral foundations of criminal responsibility with the realities of mental illness.[58] It depicts how insanity is not a clinical diagnosis but a legal construct, which requires more than the mere presence of a mental disorder. The law demands a specific degree of impairment that undermines the ability to understand or control one's actions. The modern American journey of insanity defense begins with the M'Naghten Rules (1843),[59] which became the dominant standard in the 19th and early 20th centuries.[60] However, the rule was criticized for its failure to account for the volitional dimension of mental illness, as we discussed in the previous section.

This limitation led to the emergence of the "Irresistible Impulse Test" in *Parsons v. State (1887)*,[61] which added a volitional component. It allowed acquittal where a mental illness so impaired a defendant's self-control that they could not resist committing the offense, even if

[52] Saumya (n 18).
[53] ibid.
[54] ibid.
[55] Shrikant Anandrao Bhosale v State of Maharashtra, AIR 2002 SC 3399.
[56] Devidas Loka Rathod v State of Maharashtra, AIR 2018 SC 3093.
[57] Surendra Mishara (n 28).
[58] Henry T Miller, 'Recent Changes in Criminal Law: The Federal Insanity Defense' (1985) 46 La L Rev 337.
[59] M'Naghten's Case (1843) 10 Cl & Fin 200, 8 ER 718 (HL).
[60] Anne C Gresham, 'The Insanity Plea: A Futile Defense for Serial Killers' (1993) 17 Law & Psychol Rev 193.
[61] Parsons v State 81 Ala 577, 2 So 854 (1887).

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they understood it was wrong.[62] In this case, John Parsons was accused of murdering his wife.[63] The defense argued that, although Parsons knew his act was wrong, he was suffering from a mental disease that rendered him incapable of controlling his actions.[64] The court acknowledged that a defendant could be legally insane if, due to mental illness, they lost the power to choose between right and wrong, and their free agency was destroyed, making the criminal act a product of the mental disease.[65] This marked the first formal recognition of volitional incapacity. However, this test too drew criticism, largely for its vague language and the difficulty of proving an "irresistible" impulse, particularly in courtrooms that lacked adequate psychiatric understanding.[66] Judges and juries found it hard to distinguish between impulses that were truly irresistible and those simply unresisted.[67]

In response to these difficulties, courts began to search for more comprehensive standards. The Durham Rule, established in *Durham v. United States (1954)*,[68] provided tha an accused is not criminally responsible if their unlawful act was the "product" of mental disease or defect. This rule significantly broadened the scope of the insanity defense by tying criminal responsibility to medical causation.[69] However, it was ultimately too reliant on psychiatric testimony and offered little guidance to juries on how to apply the "product" standard, resulting in inconsistent verdicts and over-medicalization of the law.[70]

Then came the American Law Institute (ALI) introduced the Model Penal Code (MPC) test in 1962.[71] It became one of the most influential standards in American jurisprudence.[72] Under the MPC, a defendant is not responsible for criminal conduct if, due to a mental disease or defect, they lacked substantial capacity either to appreciate the criminality of their conduct (cognitive prong) or to conform their conduct to the law (volitional prong).[73] This test introduced the idea of "substantial" (not total) impairment and captured both dimensions of mental illness: understanding and control.[74] It was widely praised for its clinical realism and legal balance,

[62] ibid.
[63] ibid.
[64] ibid.
[65] ibid.
[66] Louis Kachulis, 'Insane in the Mens Rea: Why Insanity Defense Reform Is Long Overdue' (2017) 26 S Cal Interdisc LJ 357.
[67] Crystal K Hartley, 'Alabama's Insanity Defense – Now in Accord with Post-Hinckley Attitudes' (1989) 13 Law & Psychol Rev 193.
[68] Durham v United States 214 F2d 862 (DC Cir 1954).
[69] Yukti Kumar, 'Insanity – A Legal Defense and Plausible Consequences' (2022) 4 Indian J L & Legal Rsch 1.
[70] ibid.
[71] Julie E Grachek, 'The Insanity Defense in the Twenty-First Century: How Recent United States Supreme Court Case Law Can Improve the System' (2006) 81(4) Indiana Law Journal 1479.
[72] ibid.
[73] Saumya (n 18).
[74] ibid.

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bridging the gap between rigid legal rules and evolving psychiatric knowledge.[75]

However, the ALI standard came under intense scrutiny after the acquittal of John Hinckley Jr. in 1982 for the attempted assassination of President Ronald Reagan, in the *United States v. Hinckley (1981)*.[76] The public perceived the verdict as a miscarriage of justice, leading to a political and legal backlash.[77] In response, Congress passed the Insanity Defense Reform Act (IDRA) of 1984, which abolished the volitional prong at the federal level and raised the burden of proof.[78] Under IDRA, the defendant must prove, by clear and convincing evidence, that due to a severe mental disease or defect, they were unable to appreciate the nature and wrongfulness of their act.[79] This marked a return to a narrowly cognitive test reminiscent of M'Naghten (this return is not uncriticized).[80]

Some jurisdictions (like, instead of fully embracing or rejecting insanity, have adopted "Guilty But Mentally Ill" (GBMI) verdicts, which allow juries to acknowledge a defendant's mental illness while still imposing punishment.[81] However, GBMI has proven inadequate. It offers little therapeutic benefit, often results in standard incarceration, and fails to resolve the central question of whether the defendant was criminally responsible at the time of the act.[82]

Nonetheless, the American experience shows their adaptability with changing understanding of mental illness. From the narrow confines of M'Naghten to the more holistic ALI standard and back again, the pendulum reflects an ongoing debate about how best to define legal insanity. This evolution makes a compelling case for reinstating volitional incapacity as a necessary element. While critics argue that volitional standards are too subjective or prone to abuse, these concerns can be mitigated through rigorous psychiatric evaluation, jury instructions, and procedural safeguards.[83] The alternative, i.e excluding volition entirely, results in a morally incomplete standard that ignores key dimensions of mental dysfunction. Only by acknowledging both the cognitive and volitional impairments caused by severe mental illness can the law remain just, compassionate, and aligned with modern psychiatric understanding.

Returning to the hypothetical - under the ALI test or other such tests that consider both cognitive and volitional impairments, Atul could be found not criminally responsible - either for failing

[75] ibid.
[76] United States v Hinckley 525 F Supp 1342 (D DC 1981).
[77] Crystal (n 68).
[78] ibid.
[79] ibid.
[80] ibid.
[81] Asokan (n 6).
[82] James F Hooper, 'The Insanity Defense: History and Problems' (2006) 25 St Louis U Pub L Rev 409.
[83] Saumya (n 18).

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to appreciate the wrongfulness of his act or for lacking control due to his delusions. Even if he knew, in the abstract, that killing was wrong, the overpowering delusion likely impaired his self-control. This dual-pronged approach offers a more humane and accurate standard than narrow tests like M'Naghten.

IV. REFORMS AND SUGGESTIONS FOR INDIA FROM AMERICAN EXPERIENCE

The recent changes under Section 22 of BNS, replacing "unsoundness of mind" with "mental condition" and including "awareness of consequences," potentially broaden the scope and align more closely with modern psychiatric understanding. However, the fundamental basis in the M'Naghten-like test remains which has many concerns, as we discussed in the second section of this paper.

To address the issue of narrowness of the M'Naghten test, the British Royal Commission on Capital Punishment (1953) suggested an altered formula - "The jury must be satisfied that at the time of committing the act the accused, as a result of disease of the mind or mental deficiency, (a) did not know the nature and quality of the act, or (b) did not know that it was wrong, or (c) was incapable of preventing himself from committing it."[84] In fact, even the 42nd Law Commission Report even considered expanding Section 84 IPC to include broader mental conditions like in the Durham Rule, but it opposed the change.[85] It cited concerns about increased reliance on medical experts and the lack of qualified psychiatrists, especially in rural areas.[86] The Commission warned that this could lead to inconsistent application and a greater risk of misuse and injustice due to India's uneven healthcare infrastructure.[87] However, since the 1971 report, India has seen significant growth in psychiatric and forensic sciences.[88] The number of trained professionals has increased, and telemedicine has expanded access to mental health services, even in rural areas. Therefore, the concern about the unavailability of qualified experts is less pertinent today.[89]

For India, adopting elements of the ALI approach could provide a clearer and more comprehensive legal standard. While some Indian courts have attempted to incorporate the inability to control behavior, they have often done so through the ambiguous "totality of circumstances" framework, as we saw in the second section while discussing the inadvertent

[84] LCI Report (n 37).
[85] ibid.
[86] ibid.
[87] ibid.
[88] PTI, 'Tech-based mental health interventions offer hope for India's under-served population' (The Economic Times, 4 April 2023) <https://economictimes.indiatimes.com/tech/technology/tech-based-mental-health-interventions-offer-hope-for-indias-under-served-population/articleshow/99237702.cms>.
[89] ibid.

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inclusion of volitional incapacity into consideration. However this framework lacks defined legal meaning and contributes to subjectivity and arbitrariness.[90] Explicitly introducing a volitional component into the statutory language, similar to the ALI test, would formalize this aspect of mental incapacity, hence, removing it from the realm of inconsistent judicial discretion.

Furthermore, the ALI test states that a person is not responsible for criminal conduct if, as a result of mental disease or defect, they lack "substantial" capacity either to appreciate the criminality.[91] The use of "substantial" aimed to lessen the rigidness of previous tests and acknowledge that mental illness might cause a significant, but not necessarily total, impairment of capacity.[92] For example, in *United States v. Currens (1967)*,[93] the court acquitted the accused based on the evidence presented, such as his history of mental illness, including diagnoses of hysteria and symptoms resembling schizophrenia. The court held that this was sufficient to raise a reasonable doubt about his criminal responsibility.[94] Hence, incorporating terms like "appreciate" (implying a deeper understanding beyond mere "knowing") and "substantial capacity" (acknowledging that impairment need not be absolute) could make the defense less rigid and better aligned with clinical reality.

Beyond statutory language, the US experience highlights the critical role of multidisciplinary collaboration and robust forensic evaluation.[95] In India, while the medical board's opinion is considered sine qua non, there is a need to streamline the process of referral, diagnosis, and certification.[96] Forensic evaluations must be detailed, providing a comprehensive account of the accused's cognitions, emotions, and behavior before, during, and after the alleged crime.[97] There is a need for investment in Forensic Psychiatry Training Centers in India and establishing prison mental health services to ensure competent evaluations are available.[98] Reforming post-acquittal management, perhaps drawing lessons from models like Canada's Review Boards which prioritize public safety and treatment in a structured, multidisciplinary setting, is also a crucial aspect of updating the system.[99] These combined legal and procedural reforms are

[90] Saumya (n 18).
[91] Ralph Slovenko, 'The Mental Disability Requirement in the Insanity Defense' (1999) 17 Behav Sci & L 165.
[92] ibid.
[93] United States v Currens 290 F.2d 751 (3d Cir. 1961).
[94] ibid.
[95] Ali Ajmal, Farooq Umair Niazi, and Faiza Rasool, 'Insanity Defense in Criminal Law in India: A Critical Analysis' (2023) 2(2) Law and Policy Review 58.
[96] Suresh Bada Math, Channaveerachari Naveen Kumar and Sydney Moirangthem, 'Insanity Defense: Past, Present, and Future' (2015) 37 Indian J Psychol Med 381.
[97] ibid.
[98] ibid.
[99] Department of Justice Canada, 'The Review Board Systems in Canada: An Overview of Results from the Mentally Disordered Accused Data Collection Study' (2006) <https://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-

essential steps toward creating a more just and medically informed insanity defense in India.

V. CONCLUSION

India's continued reliance on the M'Naghten Rules creates an incomplete and outdated standard for determining criminal responsibility. Whereas, mental illness often impairs not only one's understanding of an act but also the capacity to control one's behavior - an element the current Indian framework neglects. The need to reform this is not just theoretical, it has urgent real-life consequences, as illustrated by the case of our hypothetical about Atul. A legal system that cannot differentiate between compulsion and calculated malice is one that risks injustice. Rewriting the insanity defense to reflect modern psychiatry and to include volitional incapacity is not merely a legal imperative, it is a moral one. As civil rights lawyer Bryan Stevenson reminds us, "Each of us is more than the worst thing we've ever done."[100] A just system must recognize this, especially for the mentally ill.

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sjp/rr06_1/p1.html>.

[100] Bryan Stevenson, Just Mercy: A Story of Justice and Redemption (Spiegel & Grau 2014) 21.

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