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Mental Disorder and Commission of Crime: Analysis of Legal Position in India

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ABSTRACT

Mental illness affects the thinking and behavior of the person causing discomfort or disability. The causes of mental illness are not well understood, but what is certain is that genetic factors, various stresses and the type of interaction or connection with others, depression, insanity, anxiety, and obsession can be called mental illness.

Section 84 of IPC also speak about insanity as a defense as Act of a person of unsound mind at the time of doing a crime or incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.²

According to section 84 can we say these circumstances such as, becoming flustered and out of control for a variety of reasons under certain circumstances or sometimes we feel sad, and sometimes a state of tension and anxiety, anger and confusion overwhelms us that these states do not last long, which studies in psychiatric hospitals show a direct link between the majority of crimes and mental illness, that situations are very common in our daily behaviors can be used as a defense after committing a crime which has led to irreversible crimes.

*So the present study (**Mental disorder and commission of crime - Analysis of legal position in India**) examined the mental disorders and crime relation, deference between mental illness and mental disorders, types of mental disorders and factors of mental disorder and its legal position in India with reference of foreign books.*

Keywords: *Mental disorder, Insanity, Unsoundness of mind, Section 84, Defense.*

I. INTRODUCTION

Each person's mental strength consists of accuracy, understanding, will, intelligence, emotion, and memory, whenever one of these components is damaged, it leads to anxiety, mental problems, changes in actions and behavior of a person.

Studies in most countries show that there are conflicting perceptions between mental illness and crime. The first group believes that an arrested person should not be punished if he has

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² The Indian penal code, 1860 (act 45 of 1860), s. 84.

mental health problems at the time of the crime because he is unaware of the consequences of his actions, and commit less guilt than a normal person, while another group emphasizes less punishment because they give priority to the right to life and equality.

The positive dimension of mental health is stressed in the world Health Organization (**WHO**) definition of health as: "Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity"³

II. MENTAL DISORDER AND CRIME

So far, it can be said that the term mental illness has been used in relatively different meanings, but it is also clear when I say mental illness belongs to a specific group, which can be said to be a disease that is associated with the mind and consciousness of each person.

The Mental Health Act of 1983 in England and Wales divided "mental disorder" into four categories: "mental illness, mental retardation, psychotic disorder, and any other mental disorder or disability."⁴ Psychiatrists believe that people with mental disorders are the result of damage to the brain, and they believe that the brain is the center of intelligence of each person, understanding, and perception, and to perform each action, the command is issued from the brain and other parts of the body is doing that command. Whenever the slightest defect or injury is found in the brain, it causes mental confusion and instincts, depriving the person of the power to understand the consequences of good and bad deeds, and provides the ground for committing various crimes and causing dangerous situations.

It should be noted that mental disorders are relatively different from mental illnesses. In mental and intellectual disorders, the intellect and human brain are imperfect and underdeveloped but mental illness due to the weakness of injuries in others such as damage in the brain, problems in childbirth and various diseases cause mental illness.⁵ It should also be noted that in mental illness, two people can have the same illness but have different movements and behaviors. In fact, this is why we cannot have an accurate definition of mental illness.

III. ROLE OF MENTAL DISORDER IN CRIME

When a person becomes mentally ill or has a behavioral disorder, it is likely to damage that person's beliefs, because there is always a conflict between a healthy person's beliefs and a sick person' the mentally disorders cannot distinguish between good and bad due to their mental

³ Navin Kumar, *Criminal Psychology*, LexisNexis: Haryana, 2015, Pg.No.34

⁴ Dr. D.K. Sharma, *Psychology of crime: Random Publication*, Delhi, 2019, Pg.No. 76.

⁵ Shafi. Salih, *Criminology: Hamid Publication*, Kabul, 2016, Pg.No. 107-108.

problems, these beliefs lead to the commission of a crime.⁶ People who suffer from a mental illness sometimes knowingly and sometimes without knowing the consequences of their crime unknowingly commit a crime.

Mentally disorders have a completely different view of themselves than ordinary people in the crimes, for example, in a crime, people with depression may express their symptoms or a crime from a violent point of view, that situation can be quite normal for the majority of people in society, and the crimes committed by such individuals result in legal action.

It has often been observed that patients with mental disorders also commit suicide besides other crimes, as depression and anxiety are very common types of mental disorders. Sometimes suicide causes a world of criminal questions because there have been cases in the past where a person has killed a group of people or his family before committing suicide and still the nature of crime is unknown.⁷

IV. KINDS OF MENTAL DISORDERS

People with mental disorders are physically healthy but mentally ill and as a result of the disease their emotional and voluntary powers are damaged. Emotions, morals, and behavior of the nervous person are unbalanced, emotional, hurried, unstable, and constantly anxious and worried. As we have said before, anxiety is one of the most obvious symptoms of this disease, and that is why the patient is constantly fighting with himself, and this sometimes causes crime, and it must be said that it would be a completely wrong idea to say that all mentally ill people which has disorders and commit crimes are criminals.

Due to the lack of personality development, such people feel inadequate and feel the need and the support of others in daily life, the patient is constantly anxious and fearful, and in terms of low capacity and feeling of fatigue,⁸ the patient becomes disinterested in work and life, causing distraction.

These are the most common and important types of mental disorders:

(A) Insanity

Simply a person who has lost her intellect due to mental disorderliness and has lost the power of understanding is called insane. In **Section 84** of the Indian Penal Code, a person of an

⁶ Rosen, M. J., & Teasdale, Mental Illness and Crime. The Encyclopedia of Crime & Punishment. 2016

⁷ Fazel, S., & Grann, The population impact of severe mental illness on violent crime: American Journal Psychiatry, 2006, Pg No1397-1403.

⁸ Taj Zaman. Danish, who is the criminal and what is criminology: Kaihan publication, Iran, 2011, Iran, Pg No. 161.

unsound mind means a person does not know the consequences of his crime because of mental disorders.

According to the first paragraph of section (67) of the Afghan Penal Code, insanity is defined as: "A person who lacks comprehension and consciousness at the time of committing a crime due to insanity or other mental illnesses will not be punished."⁹ In nature, insanity may occur as a weakness of congenital (intellectual, stupid) or incidental mental powers due to the disease "general paralysis, premature dementia". Also, insanity may lead to a state of psychotic illness, that is, a complete disorder of mental life and a disturbance of consciousness, such as paranoia or schizophrenia.

Insanity can be natural or acquired, also sometimes occurs continuously and sometimes temporarily and briefly. In this regard, we can divide insanity into three parts depending on the crime.

- i. **Insanity before committing a crime:** This means that the person was initially insane and later recovered and subsequently committed a crime. That this crime has no effect on the court and the punishment of the person because he has committed the crime in a normal state and with full will.
- ii. **Insanity after committing a crime:** This means that a person has committed a crime in the state of sanity and full perception, but after committing a crime, he has become insane. This type of insanity does not prevent a person from losing his criminal responsibility, because when he committed a crime, he had full accuracy and understanding
- iii. **Insanity while committing a crime:** The only insanity that can prevent the removal of criminal responsibility is the same insanity that a person suffers from while committing a crime, because the person committed the crime exactly when he lacked understanding, consciousness and will only this type of insanity is not punishable¹⁰.

(B) Depression

Depression is a common mental disorder and one of the main causes of disability worldwide. Globally, an estimated 264 million people are affected by depression. More women are affected than men¹¹. People with depression may have many complaints in their body and life, loss of interest in life, feeling inferior, in terms of understanding and feeling weak, feeling guilty in

⁹ The Afghanistan penal code, 1976, s 67.

¹⁰ M. Wali. Amine, general criminal law: Mustaqbil publication, Kabul: 2014, Pg. No 209-211.

¹¹ <https://www.who.int/news-room/fact-sheets/detail/mental-disorders> . On 8 Dec 2021.

the most extreme cases can be the causes of this type of disease. Depression can be long-term or recurrent, disrupting a person's social and family activities, sometimes leading to serious crimes and even suicide.

(C) Anxiety and fear

Fear is a tangible and objective event. But anxiety in neurological disease is not a real thing, but is caused by a mental illness and the highest level of suffering. The disease starts with normal anxiety and gradually turns into a crisis of anxiety that lasts for hours or days. The patient suffers from palpitations, dizziness, trembling of the hands and lips, weakness of the legs, tightness of the chest, and difficulty breathing.

When anxiety attacks are continuous and intermittent, they are called anxiety attacks. And mental disorders that also reduce a person's strength and ability, all of which can lead to suicide or to commit crimes for escaping responsibility and daily suffering.¹²

(D) Bipolar Disorder

This type of disorder also cannot be said new or the era of it is small, about 45 million people worldwide have this type of disease.¹³ Usually in this type of disease, the sufferer has two diseases at the same time called mania and depression, mania including's can be (madness, love, irrational interest, unreasonable and excessive excitement, reduced need for sleep, excessive activity, Speech), It should be noted that people who have manic illness and do not experience a period of depression are also considered to be bipolar disorder.

(E) Epilepsy

Epilepsy is a neurological disease that often begins with convulsions, convulsions, pain, suffocation, and this kind of disorder happiness suddenly and even person doesn't know why he done this like committing crimes, fighting, suicide etc. For example: Someone was talking to his friends friendly, suddenly interrupting the negotiations and throwing himself out of the window, after being saved from death, and in response to why he did so, he said: I had surrendered to a great force.¹⁴

(F) Paranoia

In psychiatry, the term "paranoia" is used more than any other term in mental illness. It is a Greek word meaning "delusion". In ancient Rome and Greece, paranoia was also referred to as

¹² Taj Zaman. Danish, who is the criminal and what is criminology: Kaihan publication, Iran, 2011, Iran, Pg No.162.

¹³ <https://www.who.int/news-room/fact-sheets/detail/mental-disorders> . On 8 Dec 2021.

¹⁴ Mahdi. K. Fundamentals of Criminology: Tehran University Publication, 2014, Pg. No 449-450.

a mental disorder. In this type of patients, two personality types are observed:

- a- A paranoid character whose characteristics include the illusions of oppression and arrogance, selfishness, distrust, quick-suffering and one-sidedness.
- b- Other personality traits include sensitivity, weakness, fragility and fleeting illusions. Such patients are not resistant to life events and soon suffer, become isolated and introverted. Paranoid disorders are more common in women than men.

(G)Mania

Mania is a Greek word meaning anger and rage sufferers of very active, diligent and hard-working people who have done more than usual, have the character of leadership and authority. This type of disease is a state of excessive energy in a person or a drastic change in a person's usual behavior and thought patterns that such people cannot control the opposite words in front of them.¹⁵

V. FACTORS OF COMMITTING CRIME

Factor is a phenomenon resulting from physical or mental or social status that plays an important role in the growth or increase of crime. The factors are not the perpetrator of the crime but they are supporter. The impact of the factors is different from person to person.

Factors listed below may contribute to the crime, remember that the following list is given as an example and the causative causes in this universe are not limited to them.¹⁶

- a. **Individual or biological factors:** Crime is an individual phenomenon because it depends on the vital and psychological conditions of human beings, in which we consider crime in terms of the defining role of organs.¹⁷ Gender, age, limbs, face, ugliness and beauty, creation defect, blood type, mood, weakness, strength, history of disease, extra chromosome, genetic factor are the examples.
- b. **Environmental or natural factors:** Around nineteenth-century Italian physician and criminologist Lombroso initially believed that criminals inherited their guilt from their families, but it gradually came to the conclusion that they have behaviors that can be seen in some non-criminals as well. Thus, Lombroso introduced the concept of "indirect inheritance"; A concept according to which a person can also learn to commit a crime by contacting people in the community and expanded his views and to the environmental conditions such as poverty, poor education and improper looking etc.

¹⁵ <https://www.medicalnewstoday.com/articles/mania>. 9 Dec 2021.

¹⁶ Mahdi. K. *Fundamentals of Criminology*: Tehran University Publication, 2014, Pg. No 62-63.

¹⁷ Reza. Noor Baha, *Criminological field*: Tehran University Publication, 2013, Pg. No 171.

c. Mental disorder factors: Fear, Pessimism, Selfishness, Abnormal Love, Late Happiness in Everyday Work, Hate, Resentment, Curiosity, Recklessness, Lack of Determination, Insomnia, Aggression, Rational Style, Lack of Intelligence, Daydreaming, Gossip, Suspicion, backwardness, arrogance, lack of power of expression, power-seeking, gaining a false reputation, Madness, Stinginess, Isolationism, Negative weaving, Guilt, Feeling insecure, Failure, Deprivation, Epilepsy, Mental illness, Mood disorders, Depression, Mental fatigue, Psychopathy, Schizophrenia, Paranoia, Murder madness, fire madness, multiplicity of characters,

These are can be most of the mental disorder types, and yes Law does take mental illness or insanity into account while in criminal prosecution and judge while giving judgment, and in nowadays even after committing crime if he is not in proper mental health most of the laws used to prepper a way of treatment for offenders¹⁸.

d. Social and economic factors: As we said before factors are not perpetrator of crime but it is supporter of crime, from this we can understand social and economic factors can be a supporter of crime, like being poor in society and committing crime for money, family differences¹⁹ or some dealings with education and occupation goals, and even neighborhood are can be a causes of crime in social and economic factors.²⁰

VI. LEGAL POSITION OF MENTAL DISORDER IN INDIA

(A) According to section 84 of IPC

In-**State of Rajasthan V. Shera Ram**²¹, in Para 21, the Supreme Court mentioned “21. Once, a person is found to be suffering from a mental disorder or mental deficiency, which takes within its ambit hallucinations, dementia, loss of memory and self-control, at all relevant times by way of appropriate documentary and oral evidence, the person concerned would be entitled to seek resort to the general exceptions from criminal liability.” In the case of **Shrikant Anandrao Bhosale V. State of Maharashtra**²², the appellant was a police constable, charged with murdering his wife, but the Supreme Court acquitted the accused on the account of being proved patient of paranoid schizophrenia and was under treatment for unsoundness of mind since 1992 who has a family history of psychiatric illness where heredity plays a major role and in such case, the benefit of Section 84 of IPC is needed to be given. Not just that, in the

¹⁸ Prof. N. V. Paranjape, criminology and penology with victimology: central law publication, Allahabad, 2012, Pg. No 54.

¹⁹ Richard Cloward, Delinquency and opportunity: Free press, New York, 1960.

²⁰ Grijesh Shukla, Criminology: LexisNexis, New delhi, 2013, Pg. No64.

²¹ State of Rajasthan V. Shera Ram: (2012) 1 SCC 602, Para No. 21

²² Shrikant Anandrao Bhosale V. State of Maharashtra: (2002) 7 SCC 748

case of **Kamala Bhuniya V. State of West Bengal**²³, the Calcutta High Court stated where a victim and accused are in close relationship motive of crime assumed to be of unusual importance in cases where a plea of insanity has been taken. Moreover, In the case of **Ratanlal V. State of Madhya Pradesh**²⁴, the High Court of Madhya Pradesh convicted the appellant based on not producing any expert medical evidence in defense, however, the psychiatrist testified him as lunatic under the Indian Lunacy Act, 1912 and the relatives of defense were witnessed for the same under Section 435 of IPC. Later on, the Supreme Court acquitted the appellant stating that this could not be expected from a poor villager especially on the view of medical experts after being arrested and relatives of defense need not be disbelieved. The expression used in Section 84 of IPC is ‘unsoundness of mind’ and not ‘insanity’ but there is no specific definition has been given in IPC, however, the word ‘insanity’ is treated equivalent to the word ‘unsoundness of mind’ and hence the section should be interpreted in the broader sense. Even ‘insanity’ itself doesn’t have a specific definition. Hence in **Hari Singh Gond V. State of Madhya Pradesh**²⁵, the Supreme Court stated that the word ‘unsound of mind’ and ‘insanity’ describes various kinds of different mental disorders, so every person who is proven mentally diseased is not ipso facto exempted from the responsibility of criminal liability.

VII. CONCLUSION

Considering that crime is not a new phenomenon, it has existed since the distant past of human life, but the type of crime has been different from time to time in different societies and today it has a more complete and advanced form taken, and of course, in committing crime, various psychological, social, environmental, personal and biological factors have played a fundamental and key role. These phenomena have led man to crime, that is, what the human conscience avoids. What is clear is that human existence consists of two material and spiritual phenomena, each of which is a crisis that occurs in human life and the human body is in a state of mental and physical disorderliness. Whenever human interests are at stake, sometimes the subconscious leads to crime.

Apart from the above, other factors should be considered in the growth and increase of crime in society, including psychological factors, people with mental and neurological disorders commit murder regardless of the cause or reason.

²³ Kamala Bhuniya V. State of West Bengal: 2006 (1) CHN 439

²⁴ Ratanlal V. State of Madhya Pradesh: 1971 AIR 778

²⁵ Hari Singh Gond V. State of Madhya Pradesh: (2008) 16 SCC 109.

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