

Insanity as a Legal Defense with Special Reference to the Law in Pakistan

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Abstract

Much Crime is the combination of two elements namely the 'actus reus' and 'mens rea' is considered to have been committed when both these elements exist and are proven against the accused. Of these elements, 'mens rea' is the guilty state of mind with which a crime is committed. Hence, the law, under circumstances the mental capacity of a person is impaired due to some disease, allows legal defences for persons suffering from such mental conditions. Pakistan Penal Code, 1860 provides for a general defence of insanity to a person who, due to unsoundness of mind, cannot understand what he is doing or differentiate between right & wrong. The study points out certain shortcomings in Pakistani law which are based on centuries-old rules and asserts the need for its revision in light of modern advancements in the field of psychiatry so as to bring it to par with the laws of other civilized nations.

Key Words: Criminal Law, Legal Insanity, Responsibility, Criminology

Introduction

In a criminal trial, the law presumes every defendant to be innocent until the prosecution proves him guilty beyond a reasonable doubt. It's meant to say that the prosecution bears the burden of proof and has to establish both elements of a crime (the *actus reus* and the *mens rea*) on part of the defendant. The defendant, on the other hand, only bears the evidential burden of proof i.e. he has to prove whatever evidence he brings in court for his defence. If a defence is complete and accurate in a court of law, it is called a legal defence. Legal defence is one that is recognized by law and if proved during a trial, it may result in favour of the defendant.

Before going directly upon the issue concerned, it is worth mentioning that in criminal law, legal defences can be classified into three kinds: Justification, Excuse and Mitigation (Hart, 2008). According to Black's Law Dictionary, "Justification is a just and lawful reason for the commission or omission of an act e.g. self-defence. An excuse refers to a matter alleged as a reason for doing or not doing a thing and therefore, an exemption or relief is sought". It has been mentioned forth that during the trial if it is established that the defendant lacks the mental capacity to commit an offence or was unable to differentiate between right and wrong at the time of the commission of an offence, these are valid excuses and may result in exclusion from conviction. Mitigation means alleviation, reduction or diminution of a penalty or punishment imposed by law. Notwithstanding the differences between justification and excuse, both are alike in that their establishment results in a total exoneration of the accused from conviction and punishment. The idea of mitigation, however, presupposes that someone is convicted and liable to be punished and it is the severity of punishment which is to be decided.

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The Pakistan Penal Code, 1860 (PPC) is the major substantial criminal law which provides for legal defences against criminal liability in its chapter IV titled, 'General Exceptions'. It is important to be noted that criminal liability is the bond established between the punishment and perpetrator of the offence (Salmond, 1966). Section 84 of the PPC declares insanity as a legal defence if certain conditions are met. The text of the section is reproduced here for convenience:

"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."

It can be clearly seen that the defence available to an insane person under section 84 of the Pakistan Penal Code, 1860, is an example of an excuse as it totally excludes the culpability of an insane person who, at the time of the commission of an offence, does not know the nature (and consequences) of his act. It also applies to lunatics who, at the time of the commission of an offence, act under the influence of the disease of the mind and are unable to differentiate right from wrong.

Modern advancements in medical and psychopathic realms of sciences suggest various abnormal mental conditions short of insanity. It means that there can be stages of mental abnormality in which the sufferer may be capable of understanding and controlling a part of a criminal act committed by him but another part of the same could be out of his control due to his mental disease. This further suggests that in order to fix responsibility in such cases, part of the *mens rea* could and another part thereof could not exist on his behalf. Therefore, the capacity of the offender to commit a crime is diminished to the extent of such mental suffering short of insanity and would be considered a mitigating circumstance. Criminal responsibility, as stated earlier, is proportional to the capacity to commit a crime and hence, in such cases, the responsibility is diminished due to the mitigating factor (having a diminished capacity to commit a crime) that exists on part of a mentally ill offender. This establishes the concept or doctrine of diminished responsibility.

It has been noted by the Lahore High Court that certain mental diseases and conditions are not covered under the Pakistan Penal Code, 1860 and that the law upon the subject is 'static and not dynamic'. Our law does not cover situations where the accused, suffering from a mental disease that is short of insanity but impairs his capability to have control over his actions to a certain extent or to know the exact nature and consequences thereof. In certain civilized countries, however, new provisions have been inserted into the law so as to meet such situations by developing the doctrine of diminished responsibility. Therefore, there is a need to revisit our laws carefully and refine them 'in order to bring them at par with the comity of civilized world' (PLD 2003 Lah 60).

Cornelius (1981), a former Chief Justice of Pakistan, while opening the same issue has highlighted the shortcomings in the relevant law while he says: "In Pakistan, the matter is still dealt with at the level of insanity, that is of unsoundness of mind rendering a person incapable of knowing the nature of his act or that what he is doing is either wrong or contrary to law". He calls it a rule of antiquity and observes that, "there are no provisions in the law to meet a case of irresistible impulse or temporary insanity.... The courts in Pakistan have not hesitated to apply the milder sentence, where they are left in doubt as to whether the act was performed in an aberration of mind which appears from the evidence to be likely to have supervened."

In *Jumma Khan v. State* (2003), the Lahore High Court observed that "the law of Pakistan, in this regard... has been static and not dynamic. Life is becoming more and more complicated and stressful with the result that more and more people are suffering from mental diseases of various degrees... (it is) certainly a requirement which has been overlooked for decades."

The Pakistan Penal Code is the primary law that deals with the criminal liability of insane persons in case they commit an offence. It would be convenient to dissect the relevant section before having an analysis of the law. Section 84 of the Pakistan Penal Code, 1860, provides for insanity defence if the following conditions are fulfilled:

- The accused was suffering from 'unsoundness of mind at the time' at the time of the commission of an offence that rendered him incapable of knowing the 'nature of his act'; or
- Even if he knew its nature, he did not know it was wrong or against the law.

The Pakistan Penal Code, 1860 is a piece of legislation that was drafted during British Rule more than 150 years ago by Lord Macaulay a prominent draftsman who served as a member of the Governor General's Council. The rationale of this specific provision, section 84 of the Pakistan Penal Code, 1870 is, as it seems to be, based on the M'Naghten Rules which were framed some 15 years before the drafting of this code. The legal maxim 'the act alone does not amount to guilt, it must be enjoined by a guilty mind' has been embodied in the section.

The Rationale of Section 84 of the Pakistan Penal Code

The underlying principle involved herein is that 'every person is presumed to be sane' unless he or she proves the contrary. So, defendants who invoke section 84 will not come under the general presumption of 'sanity' rather they would be given a chance to establish their plea. A crime, as has been stated earlier, is the combination of two essential elements, the guilty act (*actus reus*) and the guilty intention (*mens rea*). In order to establish criminal culpability, both of these elements are needed to be established by the prosecution. The law presumes every human as an owner of free will and to act voluntarily in his own free judgment. But if in case it could be established that a person is lacking the 'free intent' or to make one, that would affect his legal capacity to act and, resultantly, would also affect his liability for such an act if it is committed. That is the reason minors are not held responsible for their acts which may be wrongful because the law presumes that they cannot 'intend' to do a wrongful act. The same presumption would also apply to people suffering from mental abnormality to the extent of their mental deterioration caused by an abnormality. No one can be held responsible for, or guilty of, an offence unless he has sufficient mental capacity.

In short, justification of the insanity defence comes twofold:

Firstly, because an insane person lacks intent to commit a crime or understanding of the nature of his acts or lacks 'free will' and 'rational autonomy' to act that the law presumes for every human before holding him responsible. The person suffering from insanity has no fault of his own for these deficiencies and he is all but powerless to improve this condition. This situation asserts that such an offender is not morally blameworthy.

The second point has been discussed before in this study that punishing an insane person defeats the ends of criminal justice. Punishment neither deters nor improves an insane person; therefore, it becomes purposeless rather it would prove a torment for a person who does not know why is he suffering.

Scope and Object

As mentioned earlier that section 84 of the Pakistan Penal Code, 1860 is based on the M'Naghten Rules or the Right-Wrong Test and suffers from deficiencies that are present in those rules. The M'Naghten Rules were framed after the judgment of the famous case of Daniel M'Naghten, a psychopath suffering from delusion and who, in 1843, tried to kill the then British Prime Minister, Sir Robert Peel. He shot by mistake the secretary to the Prime Minister who died afterwards. M'Naghten was charged with murder and he took the plea of insanity before the court. The plea was successfully established and he was declared not guilty by the court's verdict. The court put certain questions in order to ascertain its judgment as there was no such law at that time which would directly address or apply to the circumstances of the case (Keeton, 1961).

The Pakistani law, based on the same foundations, distinguishes between two states of mind only, one that can differentiate between right and wrong and another that cannot. So its scope is too limited to what is called 'total insanity' and mental abnormalities of a lesser degree are, apparently, not covered by it.

In order to claim excuse as a legal defence on grounds of insanity, one needs to prove legal insanity which is required not just to coincide with the expert testimony on the mental condition of the accused but also obliges the defendant to establish that:

The unsoundness of mind existed at the time of the commission of the offence.

- The unsoundness of mind to such an extent held back the defendant from knowing the nature of his act or
- Even if the defendant knew the nature of the act committed by him, he did not know that it was wrong or contrary to the law.

Without proving the above-mentioned criteria, the defendant may not be excused on grounds of insanity or unsoundness of mind. This is clear from various judgments of our judiciary, for example, the Supreme Court of Pakistan, in a landmark judgment on the issue, has elaborated that the term 'unsoundness of mind' carries a broader spectrum than the term 'insanity' and that the former "covers all the ailments concerning the mind." It was further held that "(even if such state of mind is established by the defendant)... the pivotal question would be as to whether the accused is capable to know the nature of the act committed by him..." which shows that the accused has to clear all such tests in order to seek relief on the grounds of insanity. Likewise, if the accused was insane before and immediately after the commission of the offence, the defence provided by this section will not be available to the defendant. The court in its judgment elaborates on this point as, "under this section, the crucial point is of time at which unsoundness of mind should be established, (it) is the time when the act constituting the offence is committed and burden of proving that the accused is entitled to the benefit of exemption is upon him" (1968 P.Cr.L.J. SC 187).

Legal Analysis of Pakistani Law on Insanity Defense

It is also pertinent to mention that section 84 does not use the word 'insanity' for the mental condition of the offender that it offers a legal defence. The lawmakers have used the word 'unsoundness of mind' which has a vast scope to cover all mental sufferings. The courts, however, have treated it almost as equivalent to insanity. Therefore, we may also use both expressions interchangeably.

The words 'nothing is an offence' in section 84 of the Pakistan Penal Code pose that it offers a legal excuse to the accused that, if established, will totally exonerate him of the criminal liability for the offence he has committed. The problem, however, arises out of the words 'unsoundness of mind' as they have not been defined anywhere in the Penal Code. But it has been held that unsoundness of mind or insanity, here, does not mean a clinically established condition. The courts have noted, "vast distinctions between medical insanity and legal insanity" (PLD 1956 Kar 579). The Indian Supreme Court has also held that legal insanity is different from a medical condition and "an unsoundness of mind which may amount to insanity from a medical point of view will not necessarily be legal insanity for the purpose of this section so as to confer immunity on the insane person from criminal liability" (AIR 1977 SC 608). Furthermore, it is the legal view of insanity that the courts are bound to show concern for and not the medical view of it (PLD 2002 SC 92). In some circumstances, this may prove to be a blow to the expert's testimony on the mental condition of an accused who claims insanity. Moreover, the courts while defining legal insanity, have treated it in a restrictive fashion by limiting the exemption offered to the cases where the "cognitive features (of the defendant) are completely impaired" and not where it affects the will or emotion (1979 Cri.L.J.403 (DB) Bom). It has also been held that "no legal insanity can exist unless the cognitive faculties of the accused are completely impaired as a result of unsoundness of mind... such as should make the offender incapable of knowing the nature of the act or what he is doing is wrong or contrary to law"(PLD 2002 SC 92).

The words 'the nature of the act' used in the section mean "the bearing of the act in relation to other persons (i.e. the victim)" whereas the following wordings 'that he is doing what is either wrong or contrary to law' have been referring to the "act in relation doer himself i.e. the accused responsibility for it" (AIR 1949 Nag. 66).

In the light of what has been said so far, now a fair criticism of the relevant law is offered in the next part of this study and that, too, in the light of its legal analysis by judiciary through its various judgments.

Criticism of Insanity Law in Pakistan

Since Pakistani law on insanity defence has its basis in the M'Naghten Rules, therefore, much of the legal criticism it bears is on the same grounds for which the M'Naghten Rules have been criticized.

The very first and primary objection that may be raised is that the M'Naghten Rules were framed as a result of the question-answer session that was held at the House of Lords in the mid of 17th century. Those questions were put by the frames while keeping in mind the specific context of a particular case in which Mr Daniel M'Naghten, who was suffering from delusion (a particular mental condition of insanity), was the accused. To apply such rules over each and every case of insanity, as followed in different jurisdictions, would, in no way, be called adequate and appropriate. Since Pakistani law of insanity defence is based on the same rules, it may also be criticized on the same grounds. Nevertheless, since the inception of Pakistan, the law has also attracted criticism from some prominent jurists and the judiciary itself. They assert its adaptation to modern legal standards. It has been criticized on the following points:

The Law is Outdated

The insanity law in Pakistan recognizes the excuses of insanity as well as involuntary intoxication and completely exonerates the accused suffering from either of them from the imposition of any kind of punishment. The M'Naghten Rules over which it is based are more than one and a half centuries old and were made in the light of the then knowledge about the issue at hand according to the prevalent circumstances at that time.

In *Muhammad Shafi v State* (1962), the Supreme Court of Pakistan notes that "(the) concept of degree of criminal responsibility of a person has undergone progressive and far-reaching changes because of the advancement of medical and psychiatric sciences. However, our law, based on the M'Naghten Rules, has remained static and not dynamic".

Cornelius (1981), a prominent jurist and former chief justice of Pakistan, has expressed his views almost in similar words over the law of insanity defence by saying that it did not cover mental abnormalities that have been recognized by the psychiatric sciences in recent decades as impairing the human mind and may affect the human behaviour in uncontrollable ways.

The Scope is Limited

The law of insanity in Pakistan has a limited scope as it covers cases of 'unsoundness of mind' of a particular kind. It only covers the level of insanity that renders the defendant incapable of knowing the nature of his act or that he could not distinguish between right and wrong or that the act he has committed is illegal. In other words, it only confers relief in cases where the defendant's cognitive faculty is impaired by a disease of the mind. There are no provisions in the law to meet a case of irresistible impulse or temporary insanity. The Supreme Court of Pakistan, in *Muhammad Shafi v State* (1962), has noted that "under the existing law even in case of impulsive insanity or mania, it is necessary to establish that the maniac was incapable of knowing what he was doing at that point of time". It excludes those kinds of insanity in which the maniac is tempted by an irresistible impulse to commit an act and cannot control his behaviour.

The Application is Restricted

The application of the law is restricted. Even if a defendant suffers from a mental abnormality that is at par with 'insanity' according to the expert opinion, the law would apply only to cases in which the defendant, due to his mental condition, could not differentiate between right and wrong or to know that what he was doing was against the law. It practically excludes the opinion of an expert and leaves the defendant at the

mercy of the judges. Recently in a case, *Imdad Ali v State* (Civil Petition 2990 of 2016/SC), the Supreme Court held that schizophrenia is not a mental abnormality. The accused, Imdad Ali, according to the expert's testimony, was suffering from that mental condition and pleaded defence of insanity and was awarded the death penalty after his plea was rejected.

No Provision for Diminished Responsibility

The defence of insanity under Pakistani Law is that of an 'excuse' which may be established in cases of total insanity. That is to say in cases where the accused goes completely out of mind and lacks the capability to differentiate between right and wrong. It appears that the law presumes only two states of mind. A man is either totally sane or completely insane, therefore, is either fully responsible or is not responsible at all.

It has been stated earlier that due to recent studies in the field of medical and psycho-pathological fields, the experts have suggested various mental diseases and abnormalities that are short of insanity yet they may significantly impair the cognitive as well as the emotional faculties of the human personality. The patient may understand the nature of his act or differentiate between right and wrong but his mental aberration may compel him to act violent or behave in a peculiar manner which may amount to certain illegality. To put it differently, certain abnormalities may partially impair the mind of the patient and he might understand and be in a position to control a portion of his behaviour yet another portion might be uncontrollable due to his mental condition. In such cases, on the touchstone of the current law of insanity, an accused may not get the relief that he deserves. The reason is that our law does only recognize insanity as an excuse and not as a mitigating circumstance. Such a defence, if recognized by law and validly established, would also mitigate the punishment of the defendant as per the doctrine of diminished responsibility. Hence, if the defendant merely shows that he suffers from a disease of the mind that excites his passion to the extent of losing total or partial control over his reactions will not establish a defence of insanity. Likewise, no plea of insanity is established if the accused is "mentally defective or may be regarded as morally defective or displays lack of moral judgment, or that he cannot control his impulses owing to a disease of the mind" (Halsbury & Mackay, 1976).

Problems of Interpretation

The law is confusing as it contains certain words and phrases that have no clear interpretation. Most of the time, the judges seem lost in interpretation while deciding cases where the accused has taken the plea of insanity as they examine the case as per the criterion set by the M'Naghten Rules which forms the basis for Pakistani law. For example 'unsoundness of mind' implies that insanity is a disease of the mind whereas many mental abnormalities are actually caused by problems in the human brain. It appears from these wordings that the law takes 'psychological problems' into account and does not adequately conditions that might arise out of a disease or abnormality in the brain that affects its proper functioning. The study of the human brain and its functioning is relatively a modern field of medical sciences which was not at a developed stage at the time when the M'Naghten Rules were framed.

The terms 'right and wrong' are not clear whether they are used in their moral sense or legal or refer to some religious criterion. It has been. The phrase 'to know the nature of his act' is also suffering from the problem of interpretation. What kind of knowledge has been referred to here? Understanding has certain levels and it also depends upon circumstances in each and every case. Whether it means mere knowing or refers to a profound understanding. What exactly the term 'nature of an act' means? The courts seem to favor the 'physical nature of an act and not the 'appreciation' of it. That would result in denying an insanity defence to an accused who knows what he is doing but unable to realize the impact or consequences of his act.

It is for these reasons that the application of the current law has many pitfalls which makes it difficult especially for the defendants who bear the burden of proof.

Conclusions and Suggestions

In previous pages, the prevalent law of insanity defence has been discussed and analyzed at quite a length to the extent warranted by the purpose of this study. Hence, the following conclusions have been drawn:

Criminal law, in its first place, prevents the occurrence of a crime and if a crime is committed, it tries to hold the perpetrator criminally responsible by awarding his punishment. The criminal justice system is based on the theory of punishment. For the same reason, punishment is the end of criminal justice according to jurists. A crime is a legal wrong that affects society at large and for which the law has devised a punishment. The quantum of punishment for an offence is determined by the law itself but it often leaves room for discretion to the judge on trial while sentencing a condemned offender. Therefore, for most offences, the law provides for a maximum and (in some cases) a minimum quantum of punishment. The judge may award a punishment within the limits prescribed by law and while sentencing, may exercise discretion. The discretion of the judge is bound by law and assumed to be guided by the principles of justice. Therefore, before passing judgment, he has to look at all the legal and factual aspects of the case. For a crime to establish on part of an accused, two things are needed to be proved. Firstly, the accused has actually committed the wrongful act (the *actus reus*). And secondly, he had a wrongful intention (the *mens rea*) to commit such an act. These are the two essential components of crime and are needed to be established by the prosecution before a court in order to hold an accused criminally responsible. If either of these elements is missing, the accused has not committed a crime.

As for as the *actus reus* is concerned, it is more expressed as physical in nature. The *mens rea*, on the other hand, remains elusive and behind the scenes as it refers to a specific state of mind. If an accused could be proved to be incapable to form an intent at all, he could not be held responsible for the commission of an act that may be declared wrongful otherwise. The defence of insanity is related to such kind of cases where the accused claims to be incapable of having criminal intent.

Conclusions

Laws need to be organic as the society is, for which laws are made, and should grow and change with time in order to serve the needs of the society. The law of insanity defence in Pakistan was originally drafted more than one and a half-century ago during the colonial ages and was made part of our criminal laws after the independence. The M'Naghten Rules, upon which our law is based, were the direct response to that verdict and a result of a hectic debate at the House of Lords. The House called on a panel of judges offering them a questionnaire and these rules were framed in the light of the answers given by the panel. It was for the first time that an effort was made to bring the mental condition of an accused suffering from mental abnormality into the ambit of the law. It sets a criterion to judge the degree of impairment of the legal capacity of an accused who asks to be excused from criminal liability for he suffers from a mental abnormality. It is also known as the Right-Wrong Test and is the basis of Pakistani law on the insanity defence.

Our law on insanity defence differentiates between legal and medical insanity. The standard sets for establishing 'legal insanity' had been criticized on many grounds. The criticism may be summarized in the following points:

- It is outdated for it is based on the M'Naghten Rules which were framed more than one and a half centuries ago in the light of the understanding and knowledge of abnormalities of the human mind. Medical sciences, since then, have come through major developments and advancements which have remarkably broadened our understanding of the human mind.
- The M'Naghten Rules, on which our law of insanity defence is based, were the result of a deliberate questions answers session that was held in the House of Lords. The House presented a list of five questions to a panel of fifteen judges who responded to them according to their expertise. In other words, the rules themselves have no statutory backing or the status of a court verdict but were an

embodiment of the opinion of fifteen gentlemen expressed in the House while responding to a list of questions put to them by lord members.

- The scope of M'Naghten rules was limited as the deliberations in the House of Lords were limited to the context of a particular criminal case. The five questions that the lord members put during those deliberations were also framed in the same context. Daniel M'Naghten, the offender, was suffering from delusion which is a specific kind of mental abnormality. However, it proved to be the basis of legislation upon the issue to address all ailments of the mind and the courts did not hesitate to apply them to each and every case where an accused, suffering from any kind of mental abnormality, has claimed insanity defence.
- The courts have held in different judgments that the insanity defence available under the current law can only be established in cases where the accused is unable to differentiate between right and wrong or to know what he is doing is wrong. It does not apply to cases where the accused may know about what he is doing but is unable to appreciate it due to his insane condition that has impaired his capacity.
- It has been criticized by medical experts as well on grounds that the law disproportionately emphasizes only one aspect of the human mind, the cognitive, and ignores the conative and affective aspects. Mental disorders which do significantly impair the first aspect but the second one are not covered under the current law. Therefore, offenders having particular kinds of mental abnormalities that impair the conative faculty are technically excluded from the ambit of insanity defence available under the current law.
- The law has a 'tendency of having disregard', in general, to the opinion or testimony of an expert about the mental condition of an offender who has claimed excuse of insanity. It is a result of the above two points and its stress upon distinguishing legal insanity from medical insanity. Insanity as a defence to a crime, no doubt, involves a legal analysis at the court, but since it is caused by a mental disorder and to describe that state of mind, scientific analysis and appreciation of a medical expert are needed.
- The law is not clear on the issue and has terms and phrases that are not easy to interpret. Our courts have always faced legal difficulties while trying to extend the scope of the current law while passing judgments upon offenders suffering from insanity.
- Finally, our law is restricted to the defence of an excuse. An excuse, as a legal defence, if established in a criminal trial will result in acquittal. Our law on the subject presumes that all the offenders are (completely) sane, and therefore are completely responsible until the contrary is proved. And by 'the contrary' it means total insanity and, therefore, may be excused and completely exonerated of punishment. It does not appreciate a mental abnormality that is short of insanity. Modern advancements in the medical sciences suggest many degrees of mental abnormalities that are short of insanity but significantly impair the human mind. Persons suffering from such mental diseases may not be completely insane and might be able to understand and control their behaviour. It would be, however, wrong to conclude that they behave like normal human beings. Modern psychological and psychiatric studies suggest different mental diseases in which the patient may lose temporary or partial control of his actions. As per the concepts of *mens rea* and legal defences, such an accused can only be held responsible to the extent he had control over his actions and not for the other portion of his act for which he lost control due to his mental aberration. Therefore, he deserves a lesser degree of punishment in such cases. This is called the doctrine of diminished responsibility which has developed as an improvement over the old concept of the insanity defence. Our law remains static on the issue, not realizing the advancements in the relevant field of medical sciences, less relying on the testimony of experts and does not recognize insanity, besides an excuse, as a mitigating circumstance as well. Therefore, it needs to be revisited by a fresh analysis of the matter and accordingly amended after careful evaluation of each and every aspect relating to it.

Suggestions and Recommendations

In the last, after analyzing different aspects of the Pakistani law on the issue, I suggest the following recommendations:

The Scope of Law needs to be expanded

The current law on the issue in Pakistan, as clear from this discussion, has a narrow scope. It results in suffering for those who are not covered by it. In my opinion, while establishing 'insanity' as a legal defence, the law should also include the medical aspects of insanity besides the legal ones. It should also offer 'medical insanity' as a valid ground of legal defence in light of the modern advancements in the medical field.

Moreover, besides the cognitive aspect of an impaired mind due to insanity, the other aspect i.e. of emotional impairment may also be given adequate recognition for establishing the plea of insanity.

In order to pace up with changes in the realms of law across the globe, we need to adopt modern standards as well. Many civilized nations have adapted their laws according to the needs of the time. Our law on the subject is outdated and centuries old and is, therefore, needed to be revisited. The time has come to recognize and indoctrinate the other forms of legal defences as mentioned forth which would be, indeed, a step towards lessening the sufferings of many mental patients that are suffering from diseases of mind but are not 'insane' as per the criterion settled in the current law. It will also help us give a well-deserved recognition in the comity of the civilized nations.

Formation of Proper Forensic Labs

Psychology, Psychiatry and Psychiatric therapy are fields that need special expertise and training. Mere amendment in-laws will not solve the problem without their proper implementation. Therefore, it is suggested that forensic labs of psychiatry should be established with fully trained staff so that during trials of insane offenders, the court gets proper legal assistance before saying its verdict. Moreover, the mental patients that go under a trial may also be assisted timely for problems they may face during the hearing.

Treatment of Mental Patients

The offenders suffering from the mental disease do need treatment before condemnation. They are chained by their mental ailments and bound to behave accordingly without appreciating the situation they are going through. They need assistance, care and proper treatment under the supervision of qualified experts. The law should be generous towards them in terms of curing them and treating their disease.

Speedy Trial

Our justice system suffers from the problem of delay. Trials take years to be decided which causes extensive wastage of time, health and wealth. It is recommended that trials of accused persons with mental diseases should be held on a speedy basis. They should be given special attention and the matter should not be pending in the manner we observe in other cases. It would be inhumane to keep the trial of a mental patient on delay while he spends his days and nights in jail with chronic offenders.

In the final conclusion, it may be suggested that in order to bring the necessary amendments to the current law, a proper commission should be set that comprises members from all the relevant fields to the matter i.e. lawyers, medical experts, psychologists and members from the legislature. The commission should carefully examine the law, the possibility of amendments that could be made and the proper mechanism for its implementation. It should then submit the report to the legislature along with its findings and recommendations.

The above recommendations, in my opinion, will neutralize most of the criticism that has been made over the existing law. It will help in minimizing the suffering of mental patients that they currently have had at the hands of our prevalent criminal justice system. It will also be in the better interest of society as well

as a contribution to the development of legal jurisprudence on the matter. And finally, these steps if taken will also result in dignifying our national stature in the eyes of other civilized nations.

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