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ABSTRACT:

"The intersection of gender, mental illness, and the insanity plea presents a complex legal and psychological discourse. While the insanity defense serves as a crucial safeguard for individuals with severe mental disorders, its application to female offenders remains an area of concern due to underlying biases, societal perceptions, and judicial interpretations. This paper examines the impact of the insanity plea on female offenders with mental illness, exploring how gendered stereotypes influence legal outcomes, psychiatric assessments, and sentencing. Historically, legal systems have exhibited differential treatment based on gender, often perceiving female offenders as either overly vulnerable and deserving of leniency or excessively deviant and requiring harsh punishment. The traditional understanding of criminal responsibility is frequently shaped by stereotypes that associate women with emotional instability rather than severe psychiatric disorders, leading to inconsistencies in the application of the insanity plea. Furthermore, mental illnesses common among female offenders, such as postpartum psychosis, borderline personality disorder, and depression, may not always align with the legal definitions of insanity, thereby limiting their access to the defense. This study also explores judicial and psychiatric biases in insanity determinations. Women pleading insanity may face skepticism regarding the legitimacy of their mental illness claims, with courts sometimes attributing their actions to manipulative behavior rather than genuine psychiatric disorders. Conversely, some female offenders may be institutionalized for longer periods compared to their male counterparts due to perceptions of ongoing mental instability. These disparities highlight the need for a more nuanced understanding of mental illness and gender dynamics in legal proceedings. By analyzing case law, legal frameworks, and psychological assessments, this paper aims to uncover the implicit biases affecting female offenders who seek the insanity defense. It advocates for a gender-sensitive approach that ensures fairness in the adjudication of mentally ill offenders, promoting equitable access

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to justice while balancing public safety and individual rights. Addressing these concerns requires interdisciplinary efforts from legal scholars, mental health professionals, and policymakers to refine legal standards and eliminate gender-based discrepancies in the application of the insanity plea”.

Keywords: Insanity Plea, Female Offenders, Mental Illness, Gender Bias, Criminal Responsibility, Judicial Interpretation, Psychiatric Assessment, Legal Disparities, Postpartum Psychosis, Sentencing Outcomes.

I. INTRODUCTION:

The insanity plea is also known as "*Not Guilty by Reason of Insanity*" (NGRI). It is a legal defense that allows defendants to argue that they were incompetent to understand the nature or defectiveness of their actions due to mental illness at the time of the crime. The concept derives from common law principles requiring criminal intent (*mens rea*) for liability. The *M'Naghten Rule*, established in 1843, became the foundational standard, focusing on whether the defendant understood their actions or could distinguish right from wrong. Over time, alternative tests like the "*Irresistible Impulse Test*," "*Durham Rule*," and the Model Penal Code emerged, broadening or refining criteria for insanity. From the perspective of female offenders, the insanity plea raises complex questions of gender, mental health, and legal interpretation. Women experience distinct mental health conditions—such as *postpartum psychosis*, *premenstrual dysphoric disorder (PMDD)*, or trauma-related disorders—that are often neglected or misinterpreted in criminal law. Traditionally, female criminality has been either pathologized or minimized, causing variations in judicial decisions where women are seen either as victims of their biology or as morally depraved when they deviate from expected gender norms. The intersection of gender and mental illness

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in criminal law thus creates a space where female offenders may face both forbearance and stringency depending on how closely their behaviour aligns with societal expectations of femininity. For instance, cases involving maternal filicide due to postpartum psychosis have set off contentious debates on whether the legal system thoroughly understands women-specific mental health conditions and their significance in determining criminal responsibility. This research is significant for legal reform, policy-making, and mental health advocacy, as it highlights the need for a more balanced and informed application of the insanity plea—one that fully acknowledges the intricate nature of mental illness and gender. It also contributes to broader discussions on feminist criminology, forensic psychiatry, and human rights, advocating for a system where justice is not compromised by societal prejudices. The scope of research on the insanity plea and gender issues is vast and multifaceted, encompassing legal, psychological, and societal dimensions. This research is vital for informing legal practices, addressing biases, and improving outcomes for female offenders with mental illness within the criminal justice system.¹

II. MEANING OF INSANITY PLEA:

The insanity plea, or an insanity defense, is invoked as a prison defense in criminal lawsuits in which the defendant recognizes committing the act however claims exemption from prison responsibility due to intellectual contamination or defect. It operates as an Exculpatory protection, in search of an excuse in place to justify the crook act by establishing that the defendant, at the time of the offense, become unable to apprehend the nature of their actions or distinguish right from wrong. Resultantly, the defendant is deemed to lack the vital mens rea or guilty mind required for criminal legal responsibility.² *According to Black Law Dictionary*, insanity means any mental disorder severe enough that it prevents a person from

¹ Introduction to Insanity Plea, available at : <https://www.ebsco.com> (visited on 20th March 2025).

² Meaning of insanity Plea, available at: <https://www.findlaw.com>(visited on 20th March 2025).

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having legal capacity and excuses the person from criminal or civil responsibility.³ Medical conception of insanity can be defined as a mental abnormality due to various factors existing in varying degrees. In wider connotation, it includes idiocy, madness, lunacy, mental derangement, mental disorder and every other possible form of mental abnormality known to medical science. The legal concept of insanity recognizes situations where a sudden and uncontrollable impulse drives an individual to kill or cause injury, bringing such acts within the scope of the insanity defense. In law, insanity refers to a disease of the mind that impairs an individual's cognitive faculties specifically, their reasoning capacity to such an extent that they are rendered incapable of understanding the nature and consequences of their actions. Importantly, the legal definition of insanity excludes emotional and volitional factors, focusing solely on cognitive impairment as the basis for exemption from criminal responsibility.⁴

III. GENDER:

Gender refers to the social, cultural, and cognitive characteristics associated with being man, woman or non-binary. Gender, distinct from biological sex, reflects the roles, behaviours, and identities constructed by society and shaped by individual experiences. It is increasingly understood as a fluid and dynamic concept, existing along a spectrum in preference to being limited to an inflexible binary framework.

IV. PHILOSOPHICAL AND LITERARY PERSPECTIVES ON INSANITY AND GENDER:

The concept of insanity has been explored not only in legal realms but also in literature, philosophy, and social commentary. Thinkers and authors have often reflected on the thin

³ Definition, available at: <https://www.legalserviceindia.com> (visited on 20th March 2025).

⁴ Ibid.

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line between sanity and madness, and how society treats those who cross it especially vulnerable groups like women. *Fyodor Dostoevsky* rightly said, "*The degree of civilization in a society can be judged by entering its prisons.*" This highlights the idea that the way society treats its offenders—especially mentally ill women—mirrors the true nature of civilization.⁵ *Ray Bradbury* captured the subjective nature of insanity by stating, "*Insanity is relative. It depends on who has who locked in what cage.*" This forces us to question: who really defines insanity? Is it medical, legal, or societal norms that label someone insane?⁶ *Aristotle* famously declared, "*The law is reason free from passion.*" While the law aspires to objectivity, real-world biases—especially gendered stereotypes—often creep in, influencing decisions involving women and mental health.⁷ *A. Philip Randolph* reminds us, "*Justice is never given; it is exacted, and the struggle must be continuous.*" This resonates with the constant fight for gender-sensitive justice, especially in cases where women's mental health intersects with criminal law.⁸ Feminist legal critiques sharply observe, "*When a man is tried for insanity, he is presumed sane; but when a woman is tried for her sanity, she is presumed mad.*" This statement perfectly captures the historical and systemic bias against women, often branding their emotional or psychological struggles as 'madness'.

V. DEFINITIONS:

Section 84 of the Indian Penal Code, 1860 (IPC): "*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.*"⁹

⁵ Fyodor Dostoevsky, *The House of the Dead* (1862).

⁶ Ray Bradbury, *The Illustrated Man* (1951).

⁷ Aristotle, *Politics*, Book III.

⁸ A. Philip Randolph, Speech, 1941.

⁹Section 84 IPC , available at :<https://indiacode.nic.in> (visited on 20th March 2025).

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M'Naghten Rule (1843, England): "To establish a defense on the ground of insanity, it must be clearly proved that, at the time of committing the act, the accused was suffering from such a defect of reason, due to a disease of the mind, as not to know the nature and quality of the act he was doing, or if he did know, that he did not know what he was doing was wrong."¹⁰

Black's Law Dictionary: "A mental disorder severe enough that it prevents a person from having legal capacity and excuses the person from criminal or civil responsibility."¹¹

Durham Rule (U.S.A): "An accused is not criminally responsible if his unlawful act was the product of mental disease or mental defect."

(Note: Though not followed in India, it is an important development in the insanity defense globally.)

American Psychiatric Association (APA) - Insanity: "Insanity is a legal term indicating that a person was so impaired by mental illness at the time of committing a criminal act that he or she could not conform to the law or understand the wrongfulness of the act."

VI. HISTORICAL BACKGROUND:

The concept of exempting individuals with mental illness from criminal liability is deeply entrenched in the historical foundation of criminal law, premised on the principle that penal sanctions are justified only when an individual commits a prohibited act with free will, rational understanding, and moral culpability. Beyond this, the legal framework acknowledges that attributing criminal responsibility to a person who, due to mental illness, lacks the capacity to comprehend the nature or wrongfulness of their conduct would contravene the fundamental tenets of justice, fairness, and moral blameworthiness that underpin the criminal justice system. The principle "*actus non facit reum nisi mens sit rea*" an act does not make a person guilty unless there is a guilty mind is the foundation of the

¹⁰ M'Naghten Rule, available at: <https://www.indiankanoon.org> (visited on 20th March 2025).

¹¹ Black's law dictionary, available at: <https://thelawdictionary.org> (visited on 20th March 2025).

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insanity defense. Since the fourteenth century, the defence of insanity has been recognized in English common law, wherein complete madness was regarded as a valid defence to a criminal charge. This early recognition reflected an emerging understanding that individuals deprived of reason due to mental illness could not be held morally or legally accountable for their actions. By 1518, it was well established in English law that the absence of a guilty mind and rational intellect negated criminal responsibility. This understanding continued to evolve, and by the eighteenth century, the notion of 'complete madness' had developed into the 'wild beast test'—the earliest formal test for determining insanity. This test was articulated in the landmark case of *R vs. Arnold (1724)*, wherein it was held that a defendant could only be excused from criminal liability if they were deemed to have no more understanding than a 'wild beast'. The foundation of the insanity defence can be traced back to the 13th century, when Justice Tracy, serving in King Edward's court, articulated the principle that a defendant could not be held criminally liable if found to be insane. In his instructions to the jury, he emphasized that an individual who is 'totally deprived of his understanding and memory, and does not know what he is doing, no more than an infant, than a brute, or a wild beast,' is not a proper subject of punishment. This early articulation laid the groundwork for the evolving concept of criminal responsibility and the moral culpability of mentally ill offenders. Subsequently, in the year 1800, the landmark trial of James Hadfield set a new standard for the insanity defence in English law. The test established in this case focused on 'the ability to distinguish between good and evil,' which later came to be known as the Good and Evil Test or the Insane Delusion Test. This decision was significant as it marked a departure from two previously held notions: first, that partial insanity was insufficient for a defence unless it directly related to the criminal act, and second, that a defendant could not be excused unless acting under an irresistible impulse. The ruling in Hadfield's Case thus shifted the emphasis towards the cognitive ability of the accused to comprehend the moral quality of their actions.

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The decision in Hadfield's Case clarified two important aspects of the insanity defence. First, it established that complete deprivation of mental faculties was not necessary to warrant acquittal on the grounds of insanity. Second, it began to challenge the rigid association between insanity and the ability to distinguish between right and wrong. Subsequently, in Bowler's Case, the House of Lords sought to refine the legal test by formulating the standard of the defendant's capacity to distinguish between right and wrong. However, this position underwent substantial modification with the seminal judgment in R vs. M'Naghten (1843), which laid down the principles that continue to form the foundation of the modern insanity defence. The M'Naghten Rules shifted the focus back to the cognitive capacity of the accused at the time of the act, thereby providing a more structured framework for assessing criminal responsibility in cases involving mental illness.¹²

VII. CONSTITUTIONAL PROVISIONS RELATING TO INSANITY AND MENTAL HEALTH:

While the Indian Constitution does not explicitly address the insanity defense, several provisions ensure the protection of the rights and dignity of individuals suffering from mental illnesses, including those facing criminal charges. These provisions aim to uphold the principles of fairness, equality, and justice for all, including mentally ill offenders.

VII.I ARTICLE 21 – PROTECTION OF LIFE AND PERSONAL LIBERTY:

Article 21 guarantees that no person shall be deprived of their life or personal liberty except according to a procedure established by law. This right extends to mentally ill individuals and ensures that they are treated fairly and with dignity throughout legal proceedings.

¹² Historical background, Available at: <https://www.legalserviceindia.com> (visited on 20th March 2025).

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It also safeguards their right to appropriate medical care and humane treatment, both during trial and in custody, recognizing their vulnerability.¹³

VII.II ARTICLE 14 – RIGHT TO EQUALITY BEFORE THE LAW:

This Article ensures that every individual is equal before the law and entitled to equal protection of the laws. It prevents discrimination based on any grounds, including mental illness. Mentally ill accused persons must be provided the same legal protections as any other individual, ensuring that their condition does not lead to unfair treatment or bias in the judicial process.

VII.III ARTICLE 22 – SAFEGUARDS AGAINST ARBITRARY ARREST AND DETENTION:

Article 22 offers specific rights to individuals at the time of arrest and detention, such as the right to be informed of the reasons for arrest and the right to consult a legal practitioner. These protections also apply to mentally ill individuals, ensuring that they are not unlawfully detained or denied legal assistance due to their mental condition.¹⁴

VII.IV DIRECTIVE PRINCIPLES OF STATE POLICY:

Article 39(e) and 39(f), Under these provisions, the State is directed to protect its citizens from conditions that are harmful to their health and well-being. Article 39(e) focuses on preventing exploitation, while Article 39(f) emphasizes protecting children and individuals from neglect and abandonment. These principles also extend to individuals with mental illnesses, requiring the State to create conditions that safeguard their mental health and ensure their care and protection.¹⁵

¹³ J.N.Pandey, The constitution of India, 248(Central law agency, Allahabad, 50th edn 2013).

¹⁴ Id at 320.

¹⁵ Id at 436.

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VII.V ARTICLE 253 READ WITH THE 7TH SCHEDULE –

INTERNATIONAL OBLIGATIONS:

India's commitment to international treaties like the *United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)*, strengthens the protection of rights for individuals with mental illnesses. Article 253 empowers the government to implement such international agreements, which recognize mental health conditions as disabilities and promote equal treatment, dignity, and non-discrimination.

VIII. LEGAL FRAMEWORK AND THEORETICAL

BACKGROUND:

The legal framework governing the insanity plea is inherently complex and varies considerably across jurisdictions. It encompasses a range of tests and doctrinal standards aimed at determining whether a defendant's mental illness at the time of the offence sufficiently impaired their cognitive or volitional capacities to warrant exemption from criminal liability. The insanity defence is a legal doctrine that absolves individuals from criminal liability if, at the time of the offence, they were suffering from a severe mental illness that substantially impaired their capacity to understand the nature and quality or the wrongfulness of their actions. The concept of legal insanity specifically refers to the defendant's inability, due to mental illness, to comprehend the nature of their conduct or to distinguish right from wrong at the time of the criminal act. This legal standard is distinct from clinical definitions of mental illness, which encompass a broader spectrum of psychological conditions but do not necessarily carry legal consequences or affect criminal responsibility.¹⁶

¹⁶ Legal framework and theoretical background, available at: <https://www.lawjournals.com> visited on 20th March 2025).

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M'Naghten Rule (1843, U.K). This rule establishes that a defendant is not criminally responsible if, at the time of the act, they were suffering from a severe mental disease or defect that rendered them incapable of understanding the nature and quality of their act, or of knowing that their conduct was wrong. The most widely adopted test, requiring proof that due to a "*defect of reason from disease of the mind*," the accused did not know the nature of the act or that it was wrong. This strict cognitive test is applied in India under Section 84 of the Indian Penal Code (IPC), 1860.

Durham Rule (1954, USA). Although largely abandoned, this rule focused on whether a defendant's mental defect caused the criminal act. This rule is also known as the "*Product Test*," this rule considers whether the criminal act was the product of mental illness. Though later rejected in many jurisdictions, it brought attention to the need for flexible interpretations of mental health.

Model Penal Code Test (1962, USA). This was developed by the American Law Institute, this test includes both cognitive and volitional elements, allowing an insanity defense if the individual lacked the capacity to appreciate the criminality or conform their conduct to the law. The MPC provides a more nuanced approach, stating that a defendant lacks responsibility if they cannot appreciate the criminality of their conduct or conform their actions to legal requirements due to mental disease.

Indian legal framework (sec 84 IPC). India strictly follows the M'Naghten Rule. The burden of proof lies on the accused to establish insanity at the time of the offense. Indian law lacks explicit provisions to address gender-specific mental illnesses like postpartum psychosis or trauma disorders.¹⁷ The burden of proving insanity typically lies with the defendant, who must provide evidence supporting their claim. This can vary by jurisdiction, with some requiring proof by a preponderance of evidence and others by clear and convincing evidence.

¹⁷ Ibid.

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Courts have established that the determination of legal insanity must be made at the time of the offense, and defendants must demonstrate that they were suffering from unsoundness of mind during that specific period.

VIII.I THEORETICAL BACKGROUND:

Feminist Legal Theory: Feminist scholars like Carol Smart and Martha Chamallas argue that the criminal justice system is inherently patriarchal. Women's actions, especially in violent crimes, are judged through societal expectations of femininity and motherhood. This affects how mental illness is perceived in female offenders, often leading to either pathologization or moral condemnation rather than fair legal consideration.

Psychological and Psychiatric Perspectives: Mental health conditions like postpartum psychosis, PMDD, and trauma-related disorders are uniquely or disproportionately experienced by women. However, traditional legal insanity standards do not account for these disorders, leaving women at a disadvantage when invoking the defense.

Socio cultural Factors: Gender dynamics play a critical role in how mental illness is perceived within the legal system. Societal stereotypes about women being more vulnerable or compassionate can influence juror perceptions and outcomes in insanity cases. Research indicates that female defendants may receive more lenient treatment based on these biases.¹⁸

Intersectionality Theory (Kimberle Crenshaw): This theory highlights how overlapping identities—gender, class, race, caste—compound discrimination. In the context of female offenders with mental illness, intersectionality is critical to understanding how some women face even harsher biases within the justice system. The intersection of gender with other identities (*such as race and socioeconomic status*) complicates the application of the insanity plea. Understanding how these intersecting identities affect perceptions and legal outcomes is crucial for developing equitable legal practices.

¹⁸ Theoretical background, available at, <https://pmc.ncbi.nlm.nih.gov> (visited on 20th March 2025).

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The legal framework surrounding the insanity plea is shaped by various tests, standards, and judicial interpretations that reflect both psychological theories and sociocultural factors. Understanding these elements is essential for analyzing how gender influences the application and outcomes of the insanity defense, highlighting the need for ongoing research in this area to address systemic biases within the criminal justice system. The existing legal framework around the insanity plea is largely gender-neutral in text but gender-biased in practice. Feminist and psychological theories expose the need for a more nuanced and gender-sensitive application of this defense to ensure that female offenders suffering from specific mental health conditions receive fair treatment in criminal law.¹⁹

IX. GENDER ANALYSIS OF INSANITY PLEA IN INDIA:

The gender analysis of the insanity plea in India reveals significant insights into how gender dynamics influence legal outcomes for female offenders. The insanity plea in India is governed by *Section 84 of the Indian Penal Code (IPC), 1860*, based on the *M'Naghten Rule*. The section reads: "*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.*" This provision is gender-neutral in wording, offering no specific recognition of the different ways mental illness may manifest or be experienced by women. The legal test is purely cognitive—focused on whether the accused could distinguish right from wrong—without consideration for emotional, hormonal, or trauma-induced mental states that disproportionately affect women. In Indian law, the burden of proving insanity lies with the accused, as established in cases like *T.N. Lakshmaiah v. State of Karnataka*²⁰. This places a significant challenge on female defendants, particularly those with mental health issues, who may struggle to provide

¹⁹ Ibid.

²⁰ AIR 2001 SUPREME COURT 3828.

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sufficient evidence to support their claims of insanity.²¹ It indicates that the legal defenses available to women, particularly those who are victims of domestic violence (*e.g., battered women*), are often inadequate. The Indian Penal Code does not effectively accommodate the complexities of women's experiences, leading to challenges in successfully pleading insanity or other defenses.

X. LOW SUCCESS RATES:

A study reviewing insanity plea cases across various High Courts in India found a modest success rate of 17.6% for such pleas. This statistic underscores the difficulties faced by defendants in proving their mental state at the time of the crime.

Landmark cases, such as Manju Lakra vs. State of Assam²², highlight how courts have begun to acknowledge the circumstances surrounding female offenders, particularly those subjected to domestic violence. However, these cases also reflect ongoing challenges in applying defenses like provocation and insanity adequately for women.

XI. SOCIETAL STEREOTYPES AND PERCEPTIONS:

Indian society largely views women as nurturing, emotional, and non-violent. When women commit crimes, especially violent offenses like infanticide or spousal murder, *the courts often lean towards two extreme portrayals:*

Demonization: Viewing the woman as inherently evil for breaking societal norms.

Pathologization: Treating the woman as mentally unsound or emotionally unstable rather than holding her criminally responsible. This polarizing approach impacts fair trial rights and objective judicial assessment. For instance, mothers committing filicide may be morally judged more than medically evaluated for conditions like postpartum psychosis.

²¹ Gender analysis of insanity plea, available at: <https://lc2.du.ac.in> (visited on 20th March 2025).

²² CRIMINAL APPEAL NO. 116 (J) OF 2007.

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The societal perception of women as less culpable can sometimes work in their favor; however, it can also lead to trivialization of their mental health issues. The legal system's failure to recognize the impact of trauma on women's actions often results in inadequate defenses being available.

XII. INTERSECTIONALITY IN INDIAN CONTEXT:

Gender intersects with class, caste, rural-urban divides, and education levels in India. Poor, uneducated women or those from marginalized communities have limited access to psychiatric evaluations or legal expertise required to successfully plead insanity. Medical infrastructure is weak in many areas, leading to poor diagnosis and legal documentation of mental illnesses affecting women. The intersection of gender with other social identities (*such as socioeconomic status and race*) complicates the application of the insanity plea. Women from marginalized backgrounds may face compounded biases that further hinder their ability to successfully plead insanity. The gender analysis of the insanity plea in India reveals significant disparities in how female offenders are treated within the legal system. The application of the insanity plea in India lacks a gender-sensitive perspective. Without explicit recognition of female-specific mental health issues, the defense remains ineffective for many women. There is a pressing need for judicial and legislative reforms to bridge the gap between law and psychiatric realities for female offenders. Addressing these issues through legal reform and increased awareness is essential for ensuring equitable treatment for all defendants, particularly those affected by gender-based violence and mental health challenges.²³

²³ Ibid.

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XIII. CASE LAWS AND JUDICIAL TRENDS:

Dahyabhai Chhaganbhai Thakkar vs. State of Gujarat (1964)²⁴, In this landmark case, the Supreme Court upheld the conviction of an accused who claimed insanity after murdering his wife. The court laid down criteria for evaluating claims of insanity, emphasizing the importance of considering circumstances surrounding the crime and the state of mind at the time.

Hari Singh Gond vs. State of Madhya Pradesh²⁵, This case reinforced that every person suffering from mental illness is not automatically exempt from criminal liability. The court highlighted that legal insanity must be established based on evidence indicating that the accused was incapable of understanding their actions at the time.

State of Rajasthan vs. Shera Ram (2011)²⁶, The Courts emphasized that unsoundness of mind must exist at the time of the offense, not merely before or after. Despite thorough analysis, there was no engagement with gender-specific psychiatric conditions, reflecting a broader trend in Indian judiciary.

Surendra Mishra vs. State of Jharkhand²⁷, The Supreme Court noted that unsoundness of mind before and after the incident is relevant in determining legal insanity. The totality of circumstances surrounding the crime must be considered.

K. Muthamma vs. State (Karnataka High Court, 2011)²⁸, (*Unreported judgment but discussed in academic circles*) Woman killed her newborn, claimed postpartum mental disturbance. The court did not apply medical standards of postpartum psychosis but reduced the sentence based on sympathy rather than recognizing mental illness formally under Section 84 IPC.

²⁴ AIR 1964 SC 1563.

²⁵ (2008) 16 SCC 109.

²⁶ (2012) 1 SCC 602.

²⁷ (2011) 11 SCC 495.

²⁸ (2011) 3 AIR Kar R 846.

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XIV. JUDICIAL TRENDS ANALYSIS:

Cognitive Bias: Indian courts strictly apply the cognitive prong of M'Naghten, focusing on knowledge of right or wrong, with little flexibility.

Lack of Gender Sensitivity: Courts rarely recognize postpartum disorders or trauma-based psychiatric issues as affecting criminal responsibility.

Recognition of Mental Health Issues: There is a growing acknowledgment within judicial circles about the complexities surrounding mental health, though practical applications often fall short due to rigid interpretations.

Need for Comprehensive Approaches: Judicial trends indicate a need for a more nuanced understanding and application of mental health issues within legal frameworks, particularly as they pertain to gender and socio-economic factors.

Sympathy vs. Legal Recognition: In rare maternal filicide cases, courts sometimes reduce sentences on compassionate grounds rather than correctly applying Section 84 IPC based on psychiatric evaluation.

XV. CHALLENGES FACE BY FEMALE OFFENDERS:

Trauma and Abuse: Many women in the criminal justice system have histories of childhood abuse, domestic violence, and trauma. This background significantly influences their pathways into crime, often leading to offenses committed in response to abusive relationships or as a means of survival.²⁹

Higher Rates of Mental Health Disorders: Female offenders report higher rates of mental health issues, including depression, anxiety, and post-traumatic stress disorder (PTSD), compared to male offenders. These mental health challenges are often exacerbated

²⁹ Challenges face by female offenders, available at: <https://counciloncj.org> (visited on 20th March 2025).

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by their experiences of victimization and can complicate their interactions with the justice system.

Gender Bias and Stereotyping: Women offenders are judged not only legally but morally and socially—especially in crimes that violate traditional gender roles (*e.g., child murder, spousal murder*). Courts often demonize or pathologize female offenders instead of neutrally assessing their mental health. Societal expectations of women as caregivers and nurturers create harsher judgment when women commit violent crimes, affecting their ability to establish genuine psychiatric defenses.

Lack of Recognition of Female-Specific Mental Health Conditions: Postpartum Psychosis, PMDD, Battered Woman Syndrome—conditions disproportionately affecting women—are not recognized under Indian law or rarely pleaded. The M'Naghten Rule's narrow cognitive test fails to capture emotional, hormonal, or trauma-based mental health conditions unique to women. Limited psychiatric awareness among lawyers and judges leads to missed opportunities to argue these conditions as valid grounds for the insanity plea.

Burden of Proof and Procedural Hurdles: The burden of proof is entirely on the accused to establish insanity under Section 84 IPC. Female offenders, especially those from marginalized backgrounds, often lack access to proper psychiatric evaluation, expert witnesses, or legal resources to meet this burden. Courts in India often rely on outdated medical records or superficial assessments, ignoring underlying psychiatric issues.

Intersectionality and Socioeconomic Barriers: Poor, rural, or marginalized women face greater hurdles: Limited access to mental health care, Inadequate legal representation, Cultural stigma around both crime and mental illness. Intersectional factors (*gender, caste, class*) worsen their chances of raising or proving an insanity defense.³⁰

³⁰ Ibid.

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The challenges faced by female offenders in the criminal justice system are multifaceted and deeply rooted in societal issues such as gender inequality, trauma, and discrimination. The gender-neutral language of the law combined with gender-biased application often leads to unjust outcomes. To bridge this gap, reforms focusing on gender sensitivity, better psychiatric support, and specialized training for legal practitioners are necessary.

XVI. RECOMMENDATIONS:

Gender-Sensitive Interpretation of Section 84 IPC:

Courts must interpret Section 84 IPC with consideration for female-specific mental health conditions such as:

- *Postpartum psychosis*
- *Premenstrual Dysphoric Disorder (PMDD)*
- *Battered Woman Syndrome*

Judicial guidelines should mandate the consideration of hormonal and trauma-based disorders while assessing insanity pleas involving female offenders.

Recognition of Postpartum Mental Illness in Law:

Amendments or judicial guidelines should explicitly recognize postpartum disorders as a potential ground for the insanity defense. India can draw inspiration from international cases (*like the Andrea Yates case*) where postpartum psychosis was considered valid in establishing insanity.

Tailored Programs:

Develop and implement re-entry programs specifically designed for women, incorporating gender-responsive elements that address their unique experiences, such as trauma and mental

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health issues. This includes using screening tools for substance use and psychiatric disorders tailored for women.³¹

Integrated Treatment: Provide integrated treatment for co-occurring disorders, ensuring that female offenders receive comprehensive care for mental health issues alongside substance abuse treatment. This holistic approach can improve rehabilitation outcomes.

Enhanced Role of Expert Testimony: Courts must value expert psychiatric evidence in female mental health cases rather than relying solely on superficial observations or general medical records. Training programs for judges and lawyers on interpreting psychiatric reports should be institutionalized.

Trauma-Informed Care: It is essential to train legal, judicial, and correctional staff in trauma-informed care practices to effectively recognize and address the impact of past trauma on female offenders. This approach includes creating safe and supportive environments that minimize the risk of re-traumatization during incarceration, court proceedings, or while accessing mental health and legal services.³²

Reform sentencing Guidelines: Advocate for reforms in sentencing guidelines that consider the unique circumstances of female offenders, particularly those related to trauma and mental health issues. This can help ensure fairer treatment within the legal system.

By implementing these recommendations, the criminal justice system can better address the specific needs of female offenders, ultimately leading to improved outcomes for them and their families. Adopting a gender-sensitive framework is essential for the fair application of the insanity plea. Legal reforms, judicial training, and recognition of female-specific mental

³¹ Recommendations, available at: <https://www.ojp.org> (visited on 20th March 2025).

³² Trauma-Informed care, available at: <https://www.noa.org.uk> (visited on 20th March 2025).

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health conditions will help ensure that female offenders receive just treatment, not moral judgment or token sympathy.

XVII. CONCLUSION:

The intersection of the insanity plea and gender presents a complex and often overlooked dimension within the criminal justice system, particularly concerning female offenders with mental illness. An analysis of case law reveals that while there have been incremental advancements in acknowledging the unique challenges faced by female offenders, significant gaps persist. Judicial interpretations of the insanity defense frequently fail to consider the distinct experiences of women—especially those shaped by histories of abuse, trauma, and gender-specific mental health conditions. Moreover, the burden of proof imposed on defendants disproportionately affects female offenders, who may struggle to produce compelling psychiatric evidence due to social stigma, limited access to mental health resources, or lack of gender-sensitive evaluations. Although the insanity defense under Section 84 of the Indian Penal Code offers relief to those legally insane, it is gender-neutral in its text but often gender-blind in application. The existing legal framework thus requires critical reform to ensure that the insanity plea meaningfully accommodates the lived realities of women with mental illness in the criminal justice system. The paper highlights that societal stereotypes, deep-rooted gender biases, and the rigid application of the M'Naghten Rule collectively marginalize female offenders seeking protection under the insanity plea. Women who commit violent crimes particularly infanticide or spousal homicide often face moral scrutiny rather than a neutral psychiatric or legal evaluation. Their actions are judged against traditional expectations of femininity, care giving, and emotional restraint, making it difficult for them to establish a legitimate mental illness defense. As a result, female offenders are frequently perceived either as monsters or victims, with little space for balanced

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legal recognition of their psychiatric conditions. This results in a dual challenge either over-pathologizing female offenders or completely disregarding the genuine mental health issues they face. Additionally, limited access to expert psychiatric care, inadequate legal representation, and intersectional barriers such as poverty and caste further exacerbate the vulnerabilities of female offenders within the criminal justice system. Judicial trends indicate that sympathy often substitutes proper legal reasoning, leading courts to reduce sentences as a gesture of leniency rather than recognizing and applying genuine insanity pleas grounded in mental illness. To bridge this gap, there is a pressing need for gender-sensitive reforms including judicial guidelines, legislative amendments, mandatory psychiatric evaluations, and specialized legal aid focused on female mental health issues. Incorporating international best practices and explicitly recognizing conditions such as postpartum psychosis within the legal framework would ensure that female offenders are treated fairly as individuals with legitimate psychiatric conditions rather than moral failures or exceptions. In conclusion, addressing the intersection of gender and the insanity plea necessitates a multifaceted approach involving legal reform, enhanced awareness among legal professionals, and the establishment of comprehensive support systems for female offenders. By fostering a more equitable and informed legal environment, the justice system can better serve its rehabilitative purpose and uphold the rights of women affected by mental illness and trauma. Ultimately, this research highlights the urgent need for continued exploration, advocacy, and reform in this critical area of criminal law and mental health. This indicate that the Indian legal system governs the insanity defense under Section 84 of the Indian Penal Code (IPC), 1860, which is based on the M’Naghten Rule. According to this provision, an individual is not criminally liable if, at the time of committing the act, they were incapable of knowing the nature of the act or understanding that it was wrong or contrary to law due to unsoundness of mind. Although Section 84 is framed in gender-neutral terms, it fails to account for the unique mental health challenges experienced by female offenders, such as Postpartum

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Psychosis, Premenstrual Dysphoric Disorder (PMDD), and Battered Woman Syndrome. In practice, the application of the insanity defense by female offenders in India remains limited and often overlooks these gender-specific psychiatric conditions. Courts in India have traditionally adopted a strict and narrow interpretation of the insanity defense, focusing solely on the cognitive incapacity of the accused. Consequently, female offenders suffering from genuine psychiatric conditions rooted in hormonal changes or prolonged abuse often struggle to successfully invoke this defense. Moreover, the absence of legal recognition and limited medical understanding of women-specific mental health issues within the justice system results in either disproportionate sentencing or superficial sympathy-based leniency, rather than a proper application of the insanity plea. This gap underscores the pressing need for gender-sensitive interpretation and reform in the application of the insanity defense in India to ensure that female offenders with mental illnesses receive fair and just legal consideration.

Secondly, gender plays a crucial yet often overlooked role in the judicial interpretation of mental illness-related defenses, such as the insanity plea. While legal provisions like Section 84 of the IPC are framed in gender-neutral terms, their judicial application is frequently influenced by prevailing social stereotypes and perceptions of gender roles. Courts often evaluate female offenders not solely on legal grounds but through a moral lens, particularly in cases involving violence or the transgression of traditional gender norms, such as instances of maternal filicide. Female-specific mental health conditions, including postpartum psychosis or trauma resulting from prolonged domestic abuse, are frequently misunderstood or disregarded due to the lack of gender sensitivity in judicial reasoning. Additionally, courts may demonstrate a sympathetic stance towards female offenders but often fail to acknowledge psychiatric conditions as legally valid grounds for the insanity defense. This leads to sentencing reductions based on emotions rather than proper application of the law. Conversely, male offenders' claims of mental illness are evaluated strictly in accordance with

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legal standards, with minimal influence of moral judgment. Therefore, gender significantly influences how courts interpret the cause, severity, and impact of mental illness on criminal behaviour. This underscores the necessity of gender-sensitive judicial training and interpretation to ensure that female offenders are neither unfairly judged nor deprived of rightful access to mental health defenses. Thirdly, in Indian criminal law, female-specific mental health conditions such as Postpartum Psychosis, Premenstrual Dysphoric Disorder (PMDD), and Battered Woman Syndrome remain inadequately recognized and insufficiently addressed within the legal framework, particularly under the insanity defense provided in Section 84 of the IPC. The law continues to rely on the M’Naghten Rule, which narrowly focuses on cognitive incapacity—specifically, whether the accused understood the nature of the act or knew it was wrong. This standard fails to account for mental health conditions that may not entirely impair cognitive functions but profoundly impact a woman’s emotional and psychological state, thereby contributing to criminal behaviour. Indian courts rarely engage with medical evidence specific to women’s mental health, and such conditions are often misunderstood, overlooked, or reduced to mere mitigating factors rather than being recognized as legitimate grounds for invoking the insanity defense. For instance, postpartum psychosis which can compel a mother to harm her child under severe mental distress is not distinctly acknowledged under Indian law. In contrast, some Western jurisdictions have developed specific statutes or case law that directly address such gender-specific mental health conditions. As a result, female offenders suffering from such disorders struggle to establish legal insanity and are often subjected to moral judgment rather than thorough psychiatric evaluation. This gap underscores the urgent need for legal reforms and gender-sensitive interpretations to ensure that female-specific mental health conditions are adequately recognized and fairly considered within the framework of Indian criminal law.