

**DE JURE NEXUS LAW JOURNAL**

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**CRIME AND MENTAL ILLNESS- IS THERE A CONNECTION?****Abstract**

*Research into the relationship between mental health, crime, and violence frequently relies on populations at high risk of aggressive and criminal behaviour, such as prison inmates and psychiatric patients. As a result of this selection bias, the relationship between mental health, criminal and violent behaviour is greatly exaggerated, with mental health being wrongly linked with violent and criminal behaviour. In this study, a more representative community-based sample is used to investigate the association between mental health, violence, and criminality. One hundred twenty-one people, both with and without a mental health issue, reported criminal activity and completed an aggression questionnaire. The findings revealed that there is no statistically significant difference in terms of violence and crime involvement between people with and without a mental health diagnosis. Furthermore, the study found no statistically significant links between certain mental health conditions and specific criminal offences. According to the data, various mental health conditions do not significantly contribute to crime violence and involvement. The limitations and implications are thoroughly examined.*

**Keywords**

*Mental health, Crime, Violence, Aggression*

**Introduction**

In light of recent mass shootings in the United States, the relationship between psychiatric illness and criminality has been the subject of significant debate and examination. While the heightened emphasis and media attention on the importance of mental health in the aftermath of such tragedies is a welcome development, the relationship between mental illness and criminality is too frequently muddled.

People with mental illnesses, it is widely assumed, are more likely to perpetrate acts of violence and aggressiveness. The public's impression of psychiatric patients as dangerous is frequently founded in the media's portrayal of criminals as "mad" individuals. A substantial body of evidence shows the opposite. People suffering from mental illnesses are more likely to be victims of violent crime than perpetrators. This prejudice extends all the way to the criminal

justice system, where people with mental illnesses are considered as criminals, arrested, accused, and imprisoned for lengthier periods of time than the general population.<sup>1</sup>

### **Meaning Of Crime In Indian Penal Code**

The Indian Penal Code (IPC) is the country's official criminal code. It is a comprehensive code aimed at covering all substantive issues of criminal law.

According to the definition of crime stated in the Indian Penal Code, a criminal offence is only committed when a human person freely commits an act that is prohibited by law. These two elements of criminal responsibility are a guilty deed and a guilty mind.

The maxim *actus non facit reum, nisi mens sat rea* i.e. the act alone does not amount to guilt it must be accompanied by a guilty mind applies to consider an act as an offence. The event itself, rather than the activity that generated it, is what constitutes *actus reus*. *Mens rea* is determined by external behaviour.

Following are the essential characteristics of crime

- **Mens Rea**- *“The accused is proved to have knowingly committed the crime. Also that he had full knowledge of their actions. He must have mala fide intent towards the victim. Mens rea is also used in some civil suits. Act may be voluntary or involuntary, and the guilt is determined by the facts of the case”.*
- **Actus Reus**- *“Actus Reus is the physical aspect of a crime. The accused needs to have done something or omitted to do something. Without a guilty act, there can be no crime and no suit for damages can arise. It can be applied while considering the fact, time, place, person, possession, consent of the victim, etc.”*
- **Punishment** – *“is suffering, loss, pain, or any other penalty that is inflicted on a person for the crime by the concerned authority”.*
- **Prohibited Act**- The act should not be prohibited or forbidden under the existing law. The purpose of Criminal Justice is to punish the wrongdoer and to prevent the offender from committing the offence again.

### **Link Between Violence and Mental Illness**

In terms of violent crime, male perpetrators were not only far more numerous, but their proportion increased proportionately with the severity of brutality: in 2017, approximately 85 percent of assailants of common assault, approximately 88 percent for actual bodily harm, and approximately 91 percent for grievous bodily harm were male (the latter resulting in serious injuries to the victim, such as broken bones or permanent disfigurement). The biggest disparity, predictably, was in sexual offences, which men perpetrate at a higher rate than women.

Different research produce conflicting outcomes when it comes to the link between violence and mental illness. There are several reasons for variability, including the fact that different populations are researched, the definition of mental illness varies, and violence can be defined and assessed in a variety of ways (arrests vs convictions; severe vs more minor). Although the

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<sup>1</sup> StatPearl, Available at; <https://www.ncbi.nlm.nih.gov/books/NBK537064>(March 08,2021)

vast majority of patients with serious mental diseases (such as schizophrenia) do not engage in violent behaviour, there is an undeniable correlation.

People with mental illness are arrested and sent to prison in disproportionate numbers, often due to a lack of awareness and resources in handling these individuals. The police often arrest these individuals for petty crimes such as jaywalking or wandering behavior as a preventive law and order measure. A People suffering from mental illnesses are arrested and imprisoned in disproportionate numbers, which is largely owing to a lack of awareness and resources in dealing with these persons. As a preventive law and order measure, the police frequently arrest these persons for minor offences such as jaywalking or wandering behaviour. According to one study, 12% of adult mental patients undergoing treatment in the San Diego County health system had previously been incarcerated, while 28% of Connecticut residents treated for schizophrenia and bipolar disorder had previously been imprisoned or jailed.

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The closing of state psychiatric hospitals, which began with the deinstitutionalization campaign in 1960, caused many psychiatric patients to live on the streets, on their own. As a result, these patients encountered the police and the courts more frequently. A lack of training and staffing in the court system exacerbates the situation, potentially accounting for those with mental illnesses being an ever-increasing proportion of the jail and prison population. Many of the symptoms of psychiatric illnesses are behaviors considered antisocial or criminal such as wandering behavior.

### **Who can be defined as mentally ill as per Indian legal system?**

The 2017 Mental Health Care Act defines mental illness as "a significant disturbance of thinking, mood, perception, orientation, or memory that significantly impairs judgments, conduct, capacity to perceive reality, or ability to satisfy the usual demands of life."

In India, the death penalty is only imposed by a court in the "rarest of the rare" circumstances. The United Nations Commission on Human Rights strongly advises all nation-states not to execute anyone suffering from a mental condition. It had frequently pushed the Indian government to pass domestic legislation that would bring the death sentence into line with international legal standards.

The Indian Penal Code, under Section 84 of the Act, exempts people with mental disorders who are not lucid at the time of committing the offence as long as they do not understand the nature of the offence they are committing; however, this clause fails to recognise that the criminal justice system and the legal system should be sensitive to the fact that the conditions that persist in prisons frequently cause or exemplify mental health deterioration. The EU has also often stated how the execution of a mentally ill individual disregards human worth and dignity.

Article 21 of the Indian Constitution guarantees the protection of a person's life and personal liberty (subject to reasonable restriction: execution via procedure established by law). The

Tihar jail manual also indicates that a convict's mental and physical well-being is required for execution, and hence a mentally sick person cannot be hanged to death.

### **The recent change in Indian scenario**

The Supreme Court of India ruled in a landmark decision that mental illness is now a valid reason for abolishing the death penalty for death row inmates. This decision was made in April of 2019. The bench was made up of Justices NV Ramana, Mohan M. Shantanagoudar, and Indira Banerjee. This decision was made in the case of a convicted rapist and murderer of two youngsters in 1999. Despite suffering from severe mental disease, he was not acquitted. He had already been sentenced to death for the commission of this "barbaric and terrible offence." After considering his mental instability, the punishment was lowered to life in prison. The court also directed the state to establish a proper and effective mental health care system for him.

### **Criminal Liability**

Indian Penal Code, 1860 states that *“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.”* The McNaghten Rules, which have been incorporated into Section 84, specify the criminal liability of the mentally ill in our courts. The Supreme Court has ruled that the law presumes every person of discretionary age to be sane, and that any defence based on insanity must be proven. If the defence of insanity is established, such individuals are sent to psychiatric hospitals in accordance with section 471 I of the Cr.P.C., 1973. There have been cases where the sentence was reduced due to mental illness. When a woman (accused) leaped into a well with her children because she found life hard due to household quarrels, it was determined that the only sentence that could be issued was the lower sentence of imprisonment for life (AIR 1953 MB 61).

Section 89 of the IPC protects any activity done in good faith for the benefit of a person of unsound mind by or with the approval of the guardian or other person having lawful charge of that person. Section 305 of the Indian Penal Code (IPC) provides for the death penalty or life imprisonment for aiding and abetting suicide by an insane person.<sup>2</sup>

### **Conclusion**

Breaking the link between mental illness and criminality necessitates an inter-professional team of psychiatrists, social workers, and patient advocates detecting and reducing or eliminating risk factors that lead people with mental illnesses to commit crimes. This team approach comprises a multi-tiered system for identifying at-risk patients and providing support to avoid conditions that lead people with mental illnesses into interaction with the criminal justice system, such as medical noncompliance and a lack of food and housing. Individuals who are already in the criminal justice system require a specialised approach that involves rehabilitation, education, and empowerment. Finally, a deliberate effort is needed to educate the general public and those working in the criminal justice system in particular in order to debunk myths and prevent mischaracterization, mislabelling of criminals as those with mental illnesses, and vice versa.

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<sup>2</sup> StatPearl, Available at; [https://www.statpearls.com/ArticleLibrary/viewarticle/27969\(March 08,2021\)](https://www.statpearls.com/ArticleLibrary/viewarticle/27969(March 08,2021))