

LOCATING MENTAL DISABILITIES IN COLONIAL INDIAN LEGISLATION: A STUDY OF ACTS AND REMEDIES

Written by *Baby Rizwana N V*

3rd Year PhD Scholar, Department of History, University of Hyderabad

1.0 Introduction

Different communities understand disability differently. The meaning and understanding of the term have undergone drastic changes from period to period. In order to deal with disability as a problem, many approaches are suggested. These approaches are called models of disability.¹ One among many approaches is the legal approach of disability; this approach is simply defined as a model, which tackles the issue of disability with the help of legislation. The colonial government was credited with introducing legal acts and clauses that deals with the problem of disability in India. Colonial government understood the importance of legislations in dealing with the problem of disabled. Mental health legislations were important to protect the rights of mentally disabled and mentally ill. Mental health legislation helps to integrate mentally disabled/ill into community and can stop stigma and exploitation. This paper tries to locate clauses related to mental disabilities in colonial Indian legislations. The paper analyzes colonial acts like Indian Lunacy Acts of 1858, Lunacy Survey Bill of 1868, Indian Penal Code, Calcutta Police Act of 1866, Indian Divorce Act of 1869, Indian Evidence Act of 1872, The Indian Contract Law 1872, Code of Criminal Procedure of 1898, Lunacy Amendment Act of 1889, Prisoner's Act of 1900, Indian Lunacy Act of 1912, Court of Wards Act of 1920, Income Tax Act of 1922 and Indian Succession Act of 1925.

¹ Peter Issac, 'Disability and the education of persons' in Carol Christensen and Fazal Rizvi (eds) *Disability and dilemmas of education and justice*, open university press: Buckingham, 1996, p.33

2.0 Lunacy Act Reforms in England

Indian Lunacy² Acts were the results of the changes in lunacy laws in Britain along with the new law implementations from the new Government of India. Even before 1858, the discussions on the mental health of the natives took place and were heavily influenced from the 1845 and 1853 Lunatic and asylums Acts that had happened in England³. The reason why new lunatic laws were enacted in the Briton was the public anger about the inhuman practices forced upon the insane in the special asylums⁴.

Religion played an important part in taking care of the insane in 17th century England. Insanity was understood as something caused by evil spirits, demons and curse. Thus, in the earlier times insane were taken care by the religious bodies such as church and parishes. At these times, the opinions of the doctors were undermined and the work of healers was validated. Then the era of resident care started where some doctors out of interest, took patients in their houses for treatment. But only the lunatics from rich and affluent families were cared individually.⁵ Till 1744, there was no proper regulation for lunacy legislation. In 1744, a bill named 'regulating madhouses' was passed to regulate private asylums. The purpose of the act was to provide protection to the society by taking people to the asylum who were 'so far disordered in their senses that they may be too dangerous to be permitted to go abroad.'⁶ But even after the passing of the act, there was no registration system to operate madhouses and reports of abuses were constantly neglected.

The important changes in English mental health legislation came to a peak in 1845 with the passing of Lunacy Act of England. The brain child behind the act was the famous English politician and philanthropists Lord Anthony Cooper. According to him, the poor law was inclusive of the madhouses providing shelter for elderly, poor and mentally ill people. This created a realization that there was a need of separating 'healthy and mentally ill'. From 1828

² Terms like insanity, lunacy and disabilities are used here in this paper interchangeably in relation to mental disabilities. Mental illness is not in discussion in this paper.

³ Bill Forsythe, 'The New Poor Law and the County Pauper Lunatic Asylum – The Devon Experience, 1834-1884', *Social History of Medicine* 9- 3 ,1996, pp. 335-355.

⁴ *Ibid.*

⁵ W.L. Parry-Jones., *The Trade in Lunacy: A Study Of Private Madhouses in England and Wales in the nineteenth and eighteenth centuries*, London: Routledge and Kegan Paul, 1972, p.89.

⁶ A History of County Asylums. Available online at <http://www.cambridgeshire.gov.uk/NR/rdonlyres/DEF85AEC-CCCB-429D-8328-BB802A2E77EC/0/AHistoryofCountyAsylums.pdf>.

Lord copper controlled private mad houses in London and from 1838 he started to continuously submitting petitions in the parliament to change the laws regarding insanity. He felt greatly responsible for the welfare of the lunatics and believed only law can provide that. Along with Cooper , Lord Shaftesbury also fought for the lunacy reforms through law and headed lunacy commission. Finally the Lunacy Act and the Country Asylum Act were implemented in 1845 and it safeguarded the lunatics from illegal detention and it changed the lunatic people from that of prisoners to patients.

These acts were responsible for Wales and England⁷. Both these acts demanded the creation of the state funded house institutions for the care of the mentally or physically disabled. Under these acts, asylums were thoroughly visited and inspected by concerning authorities. Under the legislation one lunacy commission was introduced, country asylums were constructed and hospitals were registered. The rules were made for the attendances of the medical attendant. Under the law only the commissioners could decide the detention but patients lost their right to reach court to challenge their detention. Both of these acts were repealed by the Lunacy Act in 1890. This act introduced authorized detentions in the asylums and these orders were only ordered by the justice of peace. In 1913 Mental Deficiency Act was implemented which renamed the lunacy commission as ‘ the Board of control’. By the passing of 1930 Mental Treatment Act and 1946 National Health Service Act, the power of the commission was altered. Following World War II the 1890 act was repealed by Mental Health Act of 1959. This act provided treatment to every person with mental disorders. The Mental Health Act was implemented in 1983 and later amended in 1995 and 2007.

3.0 Insane Laws in Colonial India: Origin, evolution and the Inclusion of Mental Disabilities.

1858 was a year of swaps as far as Indian history is concerned. The challenges put forwarded by the first war of Indian independence had shaken colonial arrogance. This was the same year the colonial rule transferred from Company to Crown. As far as medical history in India is concerned, the year 1858 brought new aspects of legality to the discussions. It was in 1858 that the first legislative piece on the direct treatment of Indian insane was published. Act of XXXIV

⁷ Lunacy Inquiry Act (5 & 6 Vict., c. 87), 1842,NAI.

Of 1858- The Lunacy (Supreme Court) Act, Act of XXXV of 1858- The Lunacy (District Courts) Act and Act XXXVI of 1858- Lunacy Asylums Act was published on 14th September 1858 to deal with insanity among Indians. The realization of the importance of these acts in the public sphere was influenced by the construction and reorganization of other colonial institutions like Insane Asylums, British Indian Army, Universities and Indian Penal Code⁸.

After the revolt of 1857, colonial government re imagined a new India. This was already implemented in the education and politics through different policies and Indian intellectuals started to engage in discussions with the colonizers⁹. All these changes impacted in the formulation of the new lunatic law. Thus lunatic laws fueled by the thought that if the colonial government had to continue ruling India, there is a need for understanding the native mind. The better running of the institutions like prisons, army, universities and hospitals need a guide book on native thought and mind.

Two elements helped the new government in understanding colonial mind; the development of Phrenology and the implementation of English education. In mid-nineteenth-century British India, theories about race were essential to the application of phrenology, especially in the subcontinent, which possessed so many potential specimens with which to prove phrenological theory. Borrowing ideas from Phrenology colonial legal system categorized Indians into different sections of criminals. These categories were divided into hereditary thugs and born criminals. This became a new colonial project to scientifically legitimating natives as criminals and inferior. This new understanding of caste and crime also intensified the colonial desire to know the native mind with new legislation.

After 1857, the nature of colonialism started to change. It was no longer about the physical control of the colonies. The spread of the evolutionary social theory that justified the colonial conquests provoked the colonial officers to study the vernacular languages and cartographic map of the sub continent. The need for implementing English education in India was another reason why the colonial authorities decided to learn Indian mind. Carla Yanni has argued, universities and asylums try to influence mind in a similar but different ways. Both educate,

⁸ Robin J. Moore, 'Imperial India, 1858-1914', in. Andrew Porter (ed) *Oxford History of the British Empire: The Nineteenth Century*, Oxford: University Press, 2001, pp. 422-446.

⁹ Chris A. Bayly, *Rulers, Townsmen and Bazaars: North Indian society in the age of British expansion, 1770-1870* Cambridge: Cambridge University Press, 1983, pp .263. ; Thomas Metcalf, *The Aftermath of Revolt*, pp 3-43.

but the former educates the healthy and the latter educates the unhealthy¹⁰. English education was the one key according to the British government that could distinguish healthy and unhealthy mind in India.

Social reform was another reason which made colonizers realized the need for legislation. It was not possible for the Briton to implement military rule in India due to its large territory size. The blow on British army at the time of Anglo Sikh wars in 1848- 49 and Santal rebellion was enough for British to understand that they needed a change in strategies. Thus it was important to introduce social reform through the help of local network to ensure the dominance of British in India.¹¹ David Arnold assumes that the reason for new legislation was to punish the leaders of mutiny, to take them into confined on the bases of psychiatry. He further adds that this may prevent creating new idols for the future rebellions¹². But this statement is further questioned. The legislative sittings on the drafting on lunatic laws do not mention mutiny.

The development of modern medicine and psychiatry also fueled the development of the mental health legislation in India. The development of the western medicine in India started when the first surgeon in the English East India fleet ship arrived in India¹³. One of the main reasons why 1858 Act was introduced in India was its relation to the company's burden in dealing with the cost of maintenances. The soldiers who fell sick during their stay in India were sent to asylums for their treatment. Even after six months, if the condition of the person did not improve he was send back to England. The transport money and other expenses were paid by the company as a loan to the patient. But the money was never regained and it continued till 1818 and then the effectiveness of this practice was called in to question. New regulations was became an absolute need to reduce the money burden from the company. The sudden reason why the mental health care took the helping hand of legislation was the introduction of Pitts India Bill in 1784. According to the bill, the government activities were controlled by the board

¹⁰ Carla Yanni, *The Architecture of Madness: Insane Asylums in the United States*, Minneapolis: University of Minnesota Press, 2007, p 8.

¹¹ Chris A. Bayly, *Empire and Information: Intelligence Gathering and Social Communication in India, 1780-1870*, New York: Cambridge University Press, 2000, pp 2-9.

¹² David Arnold, *Police, Power and Colonial Rule: Madras, 1859-1947*, Delhi; New York: Oxford University Press, 1986, pp 7-35.

¹³ David Arnold, *Science Technology and Medicine in colonial India*, Cambridge university press: Cambridge, 2008, p. 42.

of control and the bill advised the government to take more welfare measures.¹⁴ The political unrest at this time was also continued. It was important for the British to start or have something that made people believe that British government was not here for only military purpose, but they cared about the welfare of the people.

Under these circumstances Indian Lunacy Act was passed and it was the first Pan Indian legislation concerning mental illness and disability in India. Acts 34, (Supreme Court) and 35 (District Court) of the Lunacy Act were direct adaptation of the English Lunacy Acts. These acts were divided into three sections. One implemented in the Supreme Court presidency town level, one at district and local territories and the last at institutional and asylum level. The first lunacy act didn't create uproar in the Indian society like Europeans imagined. But what these acts provided the legal definition of who is an insane is. The typical narrative of the colonial madness portrayed in the majority of texts dealing with insanity in colonial India underestimated this factor. The acts provided a clear forum to the question of what constituted a lunatic.

The 1858 Supreme Court Act states, 'the word 'lunatic', as used in this act, shall mean every person found by due course of law to be of unsound mind and incapable of managing his affairs. The act provided provisions to look at the problem of capacity of the insane. The act states 'Unsoundness of mind taken by itself is not sufficient to bring a person within the meaning of the term lunatic, unless it would incapacitate him from managing his affairs. On the other hand mere incapacity to manage his affairs is not enough unless it is shown that the said incapacity is due to unsoundness of mind. When going through this definition, it should be noted that, for colonial India an insane is not only an insane, but also a person who cannot take care of his business due to his or her insanity. Any person who can't prove his or her social usefulness due to mental disability and illness fall in this category as far as colonial India is concerned. There are instances where a person can be mentally ill and can take care of his social role just fine without any assistance. Some mental illness, especially those which are periodical or depressive won't take away the social ability of a person. But when it comes to the mentally and intellectually disabled it is not possible for a person to fulfill his or her social role without the help of someone, state or family. Care is important to such persons. Today, a person who

¹⁴ W. Ernst, 'The Rise of the European Lunatic Asylum in Colonial India (1750-1858)', *BULLETIN OF THE INDIAN INSTITUTE OF HISTORY OF MEDICINE*, 1987, pp. 95-96, 1987.

is mentally unstable because of illness or disability irrespective of their social usefulness is treated equally in front of the law.

Under the Lunacy Act of 1858 (Supreme Court) twelve state funded native asylums were established in Patna, Dacca, Murshidabad, Benaraes, Delhi, Bareilly, Nagpore, Jubbulpore. Lucknow, Dullunda, Moydapore and Cuttack¹⁵. In the 1858 lunacy law supreme court proclaimed that it is the responsibility of the crown to take care of anyone who couldn't take care of themselves owing to their mental derangements¹⁶. This clause still exists in the modern India that the state has to take care of the person who is mentally unfit to take care of their needs. The act further explained it was the duty of the respective court to find whether a person was insane by looking at the soundness of his mind and the capacity of handling his or her affairs. Information on the property belonged to such person, kin and family, the duration of which he has been of unsound mind were also to be collected and examined¹⁷.

The act further states that the term unsound mind in the section 'included imbecility of any kind whether congenital or due to old age. It also includes mental aberration resulting from disease¹⁸'. The act openly admitted that it included congenital mental disabilities too. No further explanation of whether it was meant for mental illness alone was needed because the term 'congenital' in the lunatic acts considered all kinds of mental disabilities¹⁹. The act also included imbecility and the extent of incapacity which also associated with mental disabilities. The incapacity could be happened due to the imbecility, disease, age or habitual intoxication. The act gave power to the committee to decide whether the person in question is of unsound mind and whether his unsound mind caused incapacity in his life for managing his own business. Such inquiry can be requested through advocate general by any blood relative of the alleged person or anyone who married to him or her. If the case sounds urgent, the act can appoint an interim receiver 'of the estate of the alleged lunatic²⁰'. The act also mentioned intellectually disabled. It said that if the alleged person was in such question where he could

¹⁵ The Lunacy (Supreme Courts) Acts, 1858, Act XXXIV of 1858, Available at <http://www.southasiaarchive.com/Content/sarf.145374/215399/003>

¹⁶ *Ibid*; Romani Doss. The Law of Lunacy in British India, Chapter 1- The Lunacy Act, 1858, Act of XXXIV of 1858, S. Lahiri & Co.:Calcutta, 1906,p. 123.

¹⁷ The Lunacy (Supreme Courts) Acts, 1858, Act XXXIV of 1858, Available at <http://www.southasiaarchive.com/Content/sarf.145374/215399/003>

¹⁸ *Ibid*.

¹⁹ *Ibid*.

²⁰ *Ibid*.

not understand what was going on, the court could appoint assistance in the hearing to help him or her²¹.

The act also mentioned criminal lunatic²². If the person in question is already in jail, he should be presented in the court by Habeas Corpus. The court also checked the abuse of the lunatic property²³. It was the court who decided whether the property is movable or not. The person who had this power to handle the estate of lunatic could not sell or charge by way of mortgage for three years²⁴. Sometimes lunatics being the vulnerable category, the people held his or her land abandon them when they receive properly. The court kept a tab on the management of the estate of the lunatic. The court gets notified if the kin tried to sell or mortgage of the estate of any part. The estate would stay as the immovable property for maximum three years. After three years if the kin wanted to sell the estate then they could send a proposal to the court that would be discussed and decided later with keeping the welfare of lunatic in mind. It was the court who decide 'how many and which of the relatives or next of kin shall attend before the master, at the cost of the estate, in any proceeding connected with the management thereof; and if any such relative or next of kin is an infant, may from time to time appoint a fir person to be his guardian for the purpose of the lunacy²⁵'. The court also decides who all should receive the money from the surplus of the estate. The estate of the insane can be put for sale or mortgage for purposes of the payment of his debts incurred for his maintenance or benefit, the discharge of any money on his estate, the payment of his future maintains and family and payment of cost any enquiry under the act

Lunacy (District) Act of 1858 doesn't explain much about the definition of the insane. They simply define insane as 'every person of unsound mind and every person being an idiot²⁶'. The clause on incapacity was only mentioned in the 34th act and it left out in the 35th. The aim of the 1858 Lunacy District Act was to provide better care for the estate of lunatics so that the burden of the Supreme Court of judicature gets reduced, and also to prescribe general rules concerning the state of mind of a person²⁷. This act was used when it's not possible to use Supreme Court

²¹ *Ibid.*

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ The Lunatic Asylums Act of 1858 (36 Vict., c. 22), section 37, NAI.

²⁷ The Lunacy (District Courts) Act, 1858, Act XXXV of 1858, Available at

<http://www.southasiarchive.com/Content/sarf.145374/215399/004> ; Op.cit., Romani, p. 150.

Act of Lunacy. It was the duty of this act to see and examine the property owned by the alleged lunatic²⁸. This was done by the district civil court where the person was residing. The civil court had to conduct an examination to see whether such person is unsound mind or not and the level of his capacity to manage his own business. One change this Act brought from previous was its power to appoint a manager to look after the estate of the lunatic even when the person was not living under the jurisdiction of the same court²⁹. When the court called for the applicants to be filled in the post of manager, they were to be verified from the courts side. Verifying application was a good move from the side of court because the chances of misusing or exploiting the lunatic's estate were higher when strangers got involved in the affairs.

The act made sure that only deserved candidates received the benefits. These candidates also had to produce strong evidence to back their claim. Earlier an inquiry is made into the every case that was registered. Many times the allegations were made by greedy relatives to acquire property. This clause to provide evidence before the inquiry eliminated half of these kinds of fabricated cases because the person who filed a case could not bring strong evidence to support their allegations. Under the Act, only the relative of the person or any public curator appointed under the act XIX of 1841 or a government pleader could submit a request to an inquiry³⁰.

In case if the person in question was not in the state of having an understanding of the content of the notice, the court would sort out assistance to ease the situation³¹. In these circumstances the court had to send the notice to his or her relatives too. Instead of striking off a case because a person could not appear before the service of court, this provision helped the court to conduct inquiry without any further confusion. This provision helped many mentally ill or disabled persons in colonial India to appear before the court for their certifications and promised legal protection. The right to conduct an inquiry was another clause in these acts. According to the 1858 districts courts acts, it was in the hands of the courts to personally examine a person³². Not only this, court could appoint a person whom the court may think can provide a medical report on the mental capacity of the person in question, this authorizing power was not existed

²⁸ Gazetteer of India, 1880, pt 1, p. 676.

²⁹ The Lunacy (District Courts) Act, 1858, Act XXXV of 1858, Available at <http://www.southasiarchive.com/Content/sarf.145374/215399/004>

³⁰ *Ibid.*

³¹ *Ibid.*

³² *Ibid.*

in the earlier years. In all cases the manager of the estate was appointed with formal order and certificate. Persons whose place of residence was near to the lunatic's house were taken into account. The frequency of visits and zeal for inspecting and managing concerns were recorded by the court persons. Even the son and in laws of a lunatic will not be appointed as managers, unless no person could be found to take the role of a manager. This clause showed that the colonial law thought of best check provisions for the security of the mentally ill or disabled. The court appointed a 'fit' person to be the guardian of the lunatic.

After 1858 lunacy act, in 1868 British government introduced another piece of legislation under the title of Lunacy Survey Bill. In 1860 under the initiative of home department a survey was sent out to the asylums of India from Bareilly to Rangoon. The objective of the survey was to count the numbers of existing asylums in India and ensure the good condition of them. Another goal was to acquire the total number of insane in India. The survey included both native and European institutions. The responses of the asylum superintendent were collected into a book titled 'Care and Treatment of Lunatics in India'³³. This piece of survey legislation collected information on the asylums, some in detailed description and some in bare minimum. This information included the number of intake patients and the condition of the asylum. This forced the superintendents to take care of the asylums which they assigned to. There was no provision check before this survey.

By this time, it was important to see who had jurisdiction over insanity in India. Medicine and law always mingled shamelessly in colonial India. The border between colonial law and medicine, administrative branches of medicine and judicial and sanity and insanity kept changing over time. The problem with colonial India was that it managed insanity as a pure judicial or medical problem. This confusion over medicine and law in insanity was mainly because of the lack of clarity in the British understanding of the purpose of lunatic asylums. While vaccination, creation of dispensaries and the sanitation had clear agendas and aim of their own, the aim of insanity asylums were not clear. One reason why lunacy gained judicial attention was the use of Michale Foucault's theory on 'the abnormal'³⁴. According to his views, there was a high need of medical expertise person in the court to identify inanes. He called a

³³ *Care and Treatment of Lunatics in India*, London: Bibloline, 1860. ISBN: 9780559211829

³⁴ Arnold I. Davidson, *introduction to Abnormal: Lectures at the Collège de France, 1974-1975*, by Michel Foucault, New York: Picador, 1999, p. xix.

medical expert in the court ‘an element that is the correlate of a technique of normalization³⁵’. Then colonial India started to discuss the role of medical expert in a case. The Indian lunacy acts was the result of colonial reorganization as well as the evolving nature of the discussions on madness and mind. The other result of these interactions was the introduction of Indian Penal Code(IPC), on the context of lunacy being a problem, which needed attention from both medicine and judiciary. Penal institutions like prisons worked on the principles of discipline and autonomy. It was interesting to see how lunatic asylums and prisons shared similarities and differences.

Responsibility in law meant ‘liability to punishment’³⁶. Laws in IPC were based on the concept of ‘ *actus non facit reum nisi mens sit rea*’ ie the physical act alone did not make a person guilty, the mental component was equally guilty³⁷. The law required a person to be in sound mind to be held responsible for his crime ‘ unless the contrary is proved to the satisfaction of the court’³⁸ A mentally ill or disabled person could not be punished for his crime as he lacked free will, intelligence and knowledge of the act³⁹. Section 84 in the IPC is based on the idea of MCNaughten’s rule of 1843. Daniel Mc Naughten killed Edmund Drummond, secretary of British Prime Minister Robert Peel. Naughten plea defense on the bases of insanity. But at the time of murder there was no sign that he was insane. Thus the 14 judges’ bench made some rules regarding the criminal responsibility of the insane. According to the rule, at the act of crime one should be proved to be insane.

The term unsoundness of mind in the 84th section of IPC should be examined clearly to see whether it included mental disabilities also along with mental illness. The section defined unsoundness of mind as a condition which affected the cognitive capacity of an individual, which mentioned mental disabilities along with some mental illness. Not every person who is mentally ill is not covered by the 84th section; persons who have uncontrolled feelings like anger, preservation, fear, revenge and lack of self control cannot be treated and termed insanity.

³⁵ Michel Foucault, *Discipline and Punish*, pp. 224-225

³⁶ Wahab A. The concept. criminal responsibility. *Journal of Karnataka medico legal society*, 2003, 11-2,pp 30-32.

³⁷ Camps F E et al. *GradWohl's Legal medicine*. 3'd ed. Bristol: John Wright & sons, 1976. p.494

³⁸ Knight B et al. *Cox, Medical Jurisprudence and Toxicology*. 6th ed. Allahabad: The law Book Company p.vt Ltd, 1990. p. 516-519.

³⁹ Subrahmanyam B V. *Modi's Medical Jurisprudence and Toxicology*. 22nd ed, New Delhi: Butterworths India; 1999. p. 663-669.

But the law only recognizes those conditions which affect the cognitive faculties of mind which eventually impair the persons understanding of knowing the nature of the act.

Section 84 in the IPC used more comprehensive term ‘unsoundness of mind’ instead of insanity. The use of the term was much more inclusive than insanity. The term widened the scope of the conditions inclusive of mental disabilities and disorders of emotions which normally didn’t come within the meaning of insanity⁴⁰. IPC continued with the legality of insanity in India, after 1860. The code’s law was not similar to lunacy acts. All these sections in IPC tried to argue that insanity was a pre disposition for criminality. After the 1857 rebellion the code related insanity to the concern of public disturbance. This strictness even criminalized public gathering having the chances of riot.⁴¹The IPC sections used the term ‘deviance’ to explain the clauses. When the term was explained in its relation to insanity, the law formulated what a normal behavior is. Underlying imagination was that any behavior of mentally ill or disabled person considered as deviance; an act which is not up to or different to the normal expected behavior from the society. The term further elaborated as a public nuisance, or creating injury danger to the people or property.

Calcutta Police Act of 1866 was another piece of legislation that mentioned lunacy in their legislation. This act was one among the act that came into existence through the Bengal Act IV of 1866⁴². Calcutta Police Act of 1866 came into existence on 28th March. The act was only applicable to the town of Calcutta. Under the act the administration of the town of Calcutta was vested in the hands of an officer titled as the commissioner of police.

Section 24 of the Police Act gave a detailed description on the duty and responsibility of the police officer of the town. It is in this section, that the cases of the lunatic were getting mentioned. The act stated the officer should obtain intelligence concerning the commission of cognizable offences, prevented public nuisances, apprehended all persons whom he was legally authorized to apprehend and aid other police officers. The act further quotes, it is the prime responsibility of the police officer in charge to ‘afford every assistance within his power to disabled or helpless persons in the streets and to take charge of intoxicated persons and of

⁴⁰ Shamsul Huda, *Principles of Law of Crimes in British India*, India Publisher, Calcutta, 1902, p. 271.

⁴¹ Indian Penal Code, Chapter VIII: Of Offences against the Public Tranquility, Section 153.

⁴² Calcutta Police Act, 1866 . Original text available at <https://www.legalcrystal.com/act/137553/calcutta-police-act-1866-complete-act>

lunatics at large who appear to be dangerous or to be incapable of taking care of themselves'⁴³. This is the only piece of legislation in colonial India where they used and mentioned the term 'disabled'. This included everyone, from blind to lepers and from physical disabled beggars to lunatics. The act did not give any definition to the term disabled. This created confusion on nature of disability the act intended. But the clause stressed on 'incapacity'⁴⁴. The disabled and lunatics were sacked from the streets when it appeared that the alleged person could not take care of themselves. The act also stressed on 'violence and intoxications'. This could be mainly be because of the colonial misconception on the use of intoxications and disability or lunacy.

Calcutta Police Act of 1866 also looked at situations like where it was not a matter what was his or her (person under the trail) state of mind when under trial, how calmer and saner he or she was, to confess or defend; but what his or her state of mind was before and at the time of commission of the deed. This was a piece of legislation that referred to the mental illness owing to its nature of change. Periodic attacks of mental illness could be changed after a while with the help of correct medication. But change was not applicable to the mental illness alone. Disabilities like Autism and Down Syndromes were known for their violent and unpredictable outbursts in a rage of fit. Individuals who had these fits behave violent and different at a moment, and turned calm the next. Having no further clarification in the section about the nature of change, it could only be assumed that this also was included as mental disabilities along with illness.

In 1869 Indian government passed Indian Divorce Act that came into operation on 1st April 1869⁴⁵. This was another act which mentioned insanity in their clauses. The act was amended in 2001 which had slight differences from the original act, eventually got titled as 2001 Indian Divorce Amendment Act.

The section 10 of the act gave an account of the causes that could be used to nullify a marriage⁴⁶. The first reason the act gave was adultery⁴⁷. The second reason for the divorce petition was the conversion of any Christian person to another religion. The third reason

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ Indian Divorce Act 1869, Act IV of 1869. Original text available at <https://www.legalcrystal.com/act/133703/indian-divorce-act-1869-complete-act>

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

mentioned insanity. The act quoted that it was a ground for divorce if the person ‘has been incurably of unsound mind for a continuous period of not less than two years immediately preceding the presentation of the petition⁴⁸’. These kinds of marriages are not happening much today. Even then the choice of the girls is not always given priority in the case of Indian marriages. The ground of insanity in divorce under this law, related to its nature of incurability or the condition has been present for a minimum number of two years. Other reasons for the divorce were venereal disease, non consummated marriage, deserting of partner for two years or more, failed to comply with a decree for restitution of conjugal rights and the matter of cruelty in the relationship. In special cases rape, sodomy and bestiality also became grounds for divorce⁴⁹. The section 18 dealt with the decree of nullity of marriage⁵⁰. When a marriage was cancelled under the grounds of insanity, the children they got before the final decree were entitled to succeed in the same manner as legitimate children to the estate of the parent after the death of the parents.

Just like earlier divorce acts, it was only in 1955 under the Hindu Marriage Act that the conditions of marriage were finalized. It was then decided any party of the marriage petition should be capable of giving valid consent. Even if capable of giving consent, one must not suffer from any mental disorders and one must not suffer from attacks of insanity in the form of arrested or incomplete development of mind. Under Muslim law, a person of unsound mind could be married by their legal guardian⁵¹.

Indian Evidence Act of 1872 also mentions insanity in their clauses⁵². The Evidence Act was implemented when a court had to take assistance of special art or science to identify special skills like the handwriting or finger impression. When taking such evidences one expert had to keep in mind of the unsoundness of the accused. The act also said when an accused is uses insanity as a matter of defense, to bring circumstances evidence in front of the court is his or her responsibility⁵³. If he failed to do so, the court shall carry on the procurers same in the way

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ White Swan Foundation “Law Relating to Marriage and Mental Illness”, available at: <http://www.whiteswanfoundation.org/rights-and-responsibilities/faqs/legal-faqs-law-relating-to-marriage-and-mental-illness/>

⁵² The court of Wards Act 1879, 1920. Original text available at http://www.lawsofindia.org/pdf/west_bengal/1879/1879WB9.

⁵³ The Indian Evidence Act, 1872, s. 45.

it does with a sound minded person. All persons were forced to testify in front of the court unless the person was not of sound mind which prevented him from understanding the questions asked or from giving rational answers to the question⁵⁴. This could be happened because of the disease of mind or body, tender age, old age or by any cause of same kind⁵⁵.

The Indian Contract Law was implemented in 1872. According to the law any person with sound mind could make a contract. Section 12 of the act dealt with the unsound mind. The section stated to make a contract, anyone in sound mind should be in a position to understand the purpose and consequences of the contract and be able to make a rational judgment that the contract is made upon his interest. Any person who did not have this rational judgment could not make a contract. The act took a hint at the mentally disabled. The section also mentioned about the mentally ill. The act stated a person who was usually of unsound mind but occasionally of sound mind could make a contract when he was of sound mind. But a person who was usually of sound mind and occasionally of sound mind could not make a contract when he was of unsound mind.

The general theory of contract was that both parties should be sane and free to give consent to bind the contract. If there was any lack of rational consent from either of parties, the contract is held to be void⁵⁶. If at the time of signing contract either part was not able to make consent due to his or her insanity the advantage of the contract was taken as invalid⁵⁷. Sometimes the person who entered into a contract behaved in a normal fashion, but could not make a formal rational judgment about his or her action. In these cases, the test of unsoundness of mind was to be done. It should be examined that the person who was making the contract was capable of understanding the business and consequences of his contract. This kind of incapacity happened when a person had insanity, congenital idiocy, senile dementia and other disorders. Under the act 'An idiot or a natural fool is a person that has no understanding from his infancy. Contracts entered into by an idiot other than those for necessities are void'⁵⁸.

⁵⁴ *Ibid.* s. 103

⁵⁵ *Ibid.* s.1872, s. 118.

⁵⁶ Aishwarya Padmanabhan, "Unsoundness of Mind in Contract", available at:

<http://www.manupatra.com/roundup/325/Articles/Unsoundness%20of%20Mind%20in%20Contract.pdf>

⁵⁷ Prateek Rastogi, "Civil Responsibilities of Mentally ill", *JIAFM*, 2007 29 (3); ISSN: 0971- 0973.

⁵⁸ *Op.cit.* Aishwarya.

The Code of Criminal Procedure, 1898 dealt with insanity in its XXXIV chapter⁵⁹. The section from 464 to 475 was about the regulations when a lunatic was found guilty of any crime or an accused proved to be a lunatic. When a magistrate believed that the accused is of unsound mind and could not deal with his defense, the magistrate have to inquire of his unsoundness with the help of civil surgeon of the district or any medical officer⁶⁰. If it's found that he was of unsound mind the case got postponed. If any person sent to trail before Court of Session or high court being lunatic, the same provision mentioned above was applicable to him. The definition of lunacy in this act was changed from unsound mind and incapacity to deal with his or her affair to unsoundness and incapacity to defend them in the court. Even though, some mental illness made reduction in the reason capacity of a person, this unique trait was much more common in mental disabilities⁶¹.

When an accused was found of unsound mind, he was released with sufficient security, even if bail was not given. To take care of his affairs, one officer was appointed on his behalf. If the person was not of given bail, the he was to be transferred into a safe custody and this was to be done by the provisional government. If a person detained under sections 466 or 471, he was declared fit to be released; inspector general certified that he may be released on the assurance of not causing danger to himself and other⁶²s. Then it was in the hands of the provisional government to order the release or to detain in the custody, or to transfer into a lunatic asylum. If he was never admitted in an asylum he should be examined by a commission consisting of a judicial and two medical officers. Such commission made a formal inquiry in the state of mind of the person and report was submitted to the provisional government.

In 1889 the Lunacy Amendment Act (Act IV of 1889) was passed. By 1760's EIC recruited assistants in to a subordinate medical service (SMS). In 1835 the government officially started to fund Calcutta medical college. Two year mandatory training of the surgeons and assistants in an official medical institution also became mandatory. When asylums were put under the medical department, the medical natives and British started to send their applications for the involvement in asylum care. This helped the asylums to acquire their nature of an official

⁵⁹ Code of Criminal Procedure 1898, Act V of 1898, PP 164- 167. Original text available at http://www.fmu.gov.pk/docs/laws/Code_of_criminal_procedure_1898.pdf

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² *Ibid.*

medical institution. Lunacy became a medical problem and the penal institutions lost their hold to define lunacy.

The Prisoner's Act of 1900 was another act that dealt with insanity and lunacy in colonial India⁶³. This act provided regulation to the running of the prisons in colonial India. This act dealt with the detained persons in the custody of the prison and the execution or discharge of the prisoners from the custody from the officer in charge of prisons⁶⁴. Further this act included regulations on the warrants, power of the superintendents, delivery of the prisoner, transportation of the prisoner, delivery of the prisoner to the court, custody of pending hearing, delivery of the arrested, running of reformatory schools and the regulations related to the execution of the capital sentences. Section 30 of this act was about how the lunatic prisoners should be dealt with in regards to their removal⁶⁵.

Judicial secretary of government of Eastern Bengal and Assam sent a letter to the secretary of government of India in 1910 April about the condition of the lunatic asylum in Dacca⁶⁶. Ralph Hughes Buller stated in the letter that the site available was not suitable for the asylum and a new one was to be built and the existing one should be converted to a jail. This situation infused a discussion on the building of new scientific asylums and these places should be 'in consideration of their healthiness, accessibility and economic condition'.⁶⁷ For the selection of a new site for the Daccan asylum, Ranchi was selected according to the advice of W.CH. Fsorster, Professor of pathology, Lahore medical college. This resulted in the passing of Act IV of 1912. This was described as an Act to consolidate and amend the law relating to lunacy. By 1912 the confusion on what should be the purpose of lunatic asylums was gone and new ideas were practiced and implemented. By 1912 native lunatic asylums turned into places which implemented colonial discipline, social control and surveillance.

There were three reasons why the demands for scope of lunatic asylums were grown by 1912. The first was the growth of psychiatry. It was considered as the part of mainstream medicine by then. The second reason was the increasing medical education in India. This created western educated doctors and staff. Medical education was more important to the Indians to climb the

⁶³ The prisoners Act, 1900, Act III of 1900. Original text available at https://home.gujarat.gov.in/Upload/The_Prisoners_Act_1900_home_1_1_1.

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ *Op.cit.* Bhattacharyya, p. 176.

⁶⁷ *Central Lunatic Asylum for Indian Insanes at Ranchi*. May 1910, No. 4, Medical A, Home Department, NLS.

social ladder. The IMS and SMS provided educational opportunities. Finally, India was no longer a simple colony to the British. India was their trump card, a prized possession. The days of military rule and territorial expansion was long gone and by now careful administration, social reform and judicial setup was taken as the important goal⁶⁸. Charles Harding met with the council of the governor general of India at Simla on 1911 September 18. It was noticed that he introduced a new bill to amend the existing lunacy laws in India.

1912 lunatic act extended to whole India which was intended to better the situations of lunatic asylums in India⁶⁹. The entire act contained rules related to the power of the high court to rule one person as a lunatic by inquisition. This also included clauses about the property of the lunatic and the appointment of the guardian and manager of his or her estate. In this regards, the 1912 lunatic act was not much different from the other acts. The word 'asylum' was defined by the act, as an institution of asylum or mental hospital for lunatic, which was also licensed by the state or central government⁷⁰. The word mental hospital in this context showed positive attitude of the society towards problems of insanity. The growing importance of the medical knowledge on the mind and psychiatry, drove people to look at insanity as a problem that needed scientific exploration keeping aside their age old prejudice on the old age tale on 'madness'. Medical practitioners had to fit into certain criteria under this act. They had to have a degree of certification in medicine or surgery which was to be registered in Britain. The practitioner also was to be declared by the state government as a medical officer under a special order.

Under 1912 act no person other than a criminal lunatic or any person who was found lunatic by inquiry could not be taken into the asylum⁷¹. This provision changed the deprived condition of the earlier asylums which took in everyone from the street. Under this provision only those who were really a lunatic were taken into the asylum for the care. When one desired to submit himself to the treatment, the in charge of the asylum should collect consent signature from the

⁶⁸*Op.cit.* Bhattacharyya, p.180

⁶⁹ Act No. IV of 1912. The Indian Lunacy act, 1912, The Unrepeated Acts of the Governor General of India in Council of the year 1912, pp 17-47 . Original text available at <http://www.southasiaarchive.com/Content/sarf.146468/222890/005>

⁷⁰ Act No. IV OF 1912. The Indian Lunacy act, 1912, The Unrepeated Acts of the Governor General of India in Council of the year 1912, p 18 . Original text available at <http://www.southasiaarchive.com/Content/sarf.146468/222890/005>

⁷¹*Ibid.*

two visitors of asylum. If an individual, who got admitted to the asylum like this, desired to leave, an in charge could not keep him or her in the asylum for more than for 24 hours⁷². Whenever a person made an application for reception, this application should accompanied by a statement from a local magistrate and supported by the certification of two medical officers⁷³. The medical certificates were to be counter signed by any relative of the lunatic and the proof of their relationship also was be attached with the application⁷⁴. If the person had an inquiry from the court earlier, the report of the inquiry also had to be with the application. The application could be presented by the husband or wife of the lunatic. The petitioner had to specify why s/he was submitting the petition/application⁷⁵. No minor can present an application and the relative should have seen the alleged person fourteen days before. Once the petition got registered, the magistrate personally examined the person and checked the truth of the attached certificates. The petition got nullified if the magistrate found them unfit. The magistrate will keep the person in a suitable custody till the conclusion of the enquiry. The petitioner, the alleged lunatic and a person representing lunatic should attend the enquiry in the magistrate's office⁷⁶.

After an inquiry if the lunatic is dangerous and unfit to be at large asylum, he had be moved to an asylum where the superintended was ready to take him and the petitioner had to pay the cost of his maintenance⁷⁷. A petitioner cannot be changed after the case reached in front of the magistrate. It was possible only when another person came forward willingly to take the responsibility of the petition or when the petitioner was dead. Before making an order of substitution the magistrate sent notice to the old petitioner and to the relative of the alleged lunatic. If it appears that a person is neglected, not under proper care or treated cruelly by a relative, the magistrate will call up the relative and the alleged lunatic in the court⁷⁸. If the relative is legally bound to take care of him and if he was not been taken care willfully, the relative will have to face sentence him for a period of one month. Even though 1912 act brought many positive outlook like management of property, regulation and licensing of the asylum

⁷²*Ibid*, p 22 .

⁷³*Ibid.*, p 23 .

⁷⁴ *Ibid*, p 24 .

⁷⁵ *Ibid*.

⁷⁶ *Ibid*.

⁷⁷ *Ibid*, p 26 .

⁷⁸ *Ibid*, p 30 .

and admission and discharge to the mental health in India, it was not completely free of faults. The act gave all power to the magistrate to decide on the lunacy of a person.

The Court of Wards Act in 1920 is another act which included insanity in these clauses⁷⁹. Section 6 of the act mentioned power of court of wards in relation to the property of the unsound mind⁸⁰. When any land holder was a minor, of unsound mind and not able to manage his own affairs, under the act the court of wards made an order assuming the superintendence of the property or the person. Section 11 and sub section 4 also states how to manage the property of the insane⁸¹. The 35th section of the act mentioned all disabilities including mental and physical⁸². The section was about the appointment, removal and control of guardians and tutors. The section 5 of the act was about the power of the government to make order directing court of ward assuming the superintendence of property of land holders⁸³. When a person was female or had any physical mental defect or infirmity, or had been convicted, the property was managed by the court of wards.

1922 Income Tax Act is another act which mentioned insanity in their clauses. This act was published to consolidate and amend the law relating to income tax and super tax⁸⁴. The section 40 of the act deals with the guardian and trustees or agents of a minor or lunatic. The income tax of the minor or lunatic or idiot should be paid by his trustee or guardian. The amount should be equal to any other person. In the case of the lunatic, it would be the manager of his estate to pay the amount of income tax. The manager of his estate should take this money from the profit of the estate. The manger under the act of 1858 had to present an annual balance sheet of expense and profit in the court in front of the magistrate and it also included the payment of income tax.

Indian succession Act of 1925 explained a condition of testamentary capacity of will. This clause directly hinted at the mental capacity of a person⁸⁵. Testamentary capacity ‘is the legal

⁷⁹ The court of Wards Act 1879, 1920. Original text available at http://www.lawsofindia.org/pdf/west_bengal/1879/1879WB9.

⁸⁰ *Ibid.*

⁸¹ *Ibid.*

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ Income Tax Act, 1922. Original text is available at <http://lawcommissionofindia.nic.in/1-50/report12.pdf>; <https://www.legalcrystal.com/act/133687/income-tax-act-1922-complete-act>

⁸⁵ Indian Succession Act , 1925. Original text available at http://districtcourtsnamchi.nic.in/laws/indian_succession_act_1925.http://districtcourtsnamchi.nic.in/laws/indian_succession_act_1925.

status of being capable of executing a Will, a legal declaration of the intention of a testator with respect to his property, which he desires to be carried into effect after his death⁸⁶. The act stated that any person who had sound mind could make a will. A person who was of unsound mind in the intervals can make a will while he is of sound mind⁸⁷.

In 1946 the Bhore committee, a health survey committee surveyed all hospitals in India. Under the request of the committee Col. Moore Taylor made a report.⁸⁸ The committee advised the state to change the pathetic condition of the asylums and amend its situations to a better one. After the independence Indian Psychiatric society was established in 1947. The society considered 1912 act as an inappropriate one for the treatment of insane and under the supervision of the committee a bill was crated and submitted to the Government of India in 1950. The bill received presidential sanction in May 1987 and got implemented in April 1993.⁸⁹ In 1995 finally, India passed the disability act under the title of Persons with disabilities (equal opportunities, protection of rights and full participation act (PWD act) which gave mental disorders a status of disability.

4.0 Conclusion

Mental capacity of a person may be impaired due to the mental disorders and illness. The validity of any legal transaction or procedure depended on the soundness of mind of the concerned person; the higher the soundness of mind, the higher the validity of his or her legal procedure. Not only this, the law provided protection and safety to the person who suffered from mental disorders and illness. The law provided assurance to the wellbeing of such person and his property and made sure that he or she was well taken care of. In India, from colonial times, law provided three way help to the easy life of a person who suffered from mental disability or disorders. First, the law considers any contract or crimes done by the person of unsoundness void. Second, the law postponed any trail until the person is regained his or her sound mind. This clause was mainly for the mental illness. Until he or she regained the sound

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

⁸⁸ M.Taylor Col. *Report of the health survey and development committee*, Vol. 3, Simla: Government of India Press,1946.

⁸⁹ J. K. Trivedi., 'Mental Health Act, Salient Features and Critique, *Pub Indian Psychiatric Society*, (2009). Available at <http://www.indianjpsychiatry.org/cpg/cpg2009/article7.pdf> .

mind, the state took care of the maintenances and welfare of the person. Third, the person with unsound mind was represented by a sane person in the court and his or her rights are protected by the law. This could not be the only reason for the reforms in insane laws as far as the nature of colonialism in India was concerned. Welfare of the state, or the people was not only the concern of the colonial state. It further understood that the lunatic laws in India were the result of the colonial aspiration to control the native through certain institutions.

Bibliography

Act No. IV of 1912. The Indian Lunacy act, 1912, The Unrepeated Acts of the Governor General of India in Council of the year 1912, pp 17-47 . Original text available at <http://www.southasiarchive.com/Content/sarf.146468/222890/005>

Arnold, David. (1986) *Police, Power and Colonial Rule: Madras, 1859-1947* ,Delhi; New York: Oxford University Press.

Arnold, David.(2008) *Science Technology and Medicine in colonial India*, Cambridge university press: Cambridge.

Bayly, Chris. (1983) *Rulers, Townsmen and Bazaars: North Indian society in the age of British expansion, 1770-1870*, Cambridge: Cambridge University Press.

Bayly, Chris. (2000) *Empire and Information: Intelligence Gathering and Social Communication in India, 1780-1870* ,New York: Cambridge University Press.

Calcutta Police Act, 1866 . Original text available at <https://www.legalcrystal.com/act/137553/calcutta-police-act-1866-complete-act>

Camps, F. E.(1972) et al. *Gradwohl's Legal medicine*, Bristol: John Wright & sons.

-----*Care and Treatment of Lunatics in India* ,London: Bibloline, 1860. ISBN: 9780559211829

-----*Central Lunatic Asylum for Indian Insanes at Ranchi*. May 1910, No. 4, Medical A, Home Department, NLS.

Code of Criminal Procedure 1898, Act V of 1898, PP 164- 167. Original text available at http://www.fmu.gov.pk/docs/laws/Code_of_criminal_procedure_1898.pdf

Davidson, Arnold. (1999) *Introduction to Abnormal: Lectures at the Collège de France, 1974-1975*, by Michel Foucault ,New York: Picador, 1999.

Doss, Romani.(1906) *The Law of Lunacy in British India* , Chapter 1- The Lunacy Act, 1858, Calcutta: S. Lahiri & Co.

Ernst, W.(1987) 'The Rise of the European Lunatic Asylum in Colonial India (1750-1858)', *Bulletin of the Indian Institute of History of Medicine* , pp. 95-96

Forsythe , Bill. ('1999) 'The New Poor Law and the County Pauper Lunatic Asylum – The Devon Experience, 1834-1884', *Social History of Medicine* 9- 3, pp. 335-355.

Foucault, Michel. (1995) *Discipline and Punish*, ISBN-13- 978-0679752554.

Huda, Shamsul.(1902) *Principles of Law of Crimes in British India*, Calcutta: India Publisher.

Income Tax Act, 1922. Original text is available at <http://lawcommissionofindia.nic.in/1-50/report12.pdf>; <https://www.legalcrystal.com/act/133687/income-tax-act-1922-complete-act>

Indian Divorce Act 1869, Act IV of 1869. Original text available at <https://www.legalcrystal.com/act/133703/indian-divorce-act-1869-complete-act>

Indian Penal Code, Chapter VIII: Of Offences against the Public Tranquility, Section 153.

Indian Succession Act , 1925. Original text available at http://districtcourtsnamchi.nic.in/laws/indian_succession_act_1925.http://districtcourtsnamchi.nic.in/laws/indian_succession_act_1925.

Knight, B. et al.(1990)*Medical Jurisprudence and Toxicology*. 6th ed. Allahabad: The law Book Company p.vt.

Metcalf, Thomas. (1964) *The Aftermath of Revolt: India, 1857-1870*, Princeton: University Press.

ParryJone, W.L. (1972) *The Trade in Lunacy: A Study Of Private Madhouses in England and Wales in the nineteenth and eighteenth centuries*, London: Routledge and Kegan Paul.

Porter, Andrew. (2001) (ed) *Oxford History of the British Empire: The Nineteenth Century*, Oxford: University Press.

Rastogi, Prateek.(2007) 'Civil Responsibilities of Mentally ill', *JIAFM*, 29 (3); ISSN: 0971-0973

Subrahmanyam, B .V (1999) *Medical Jurisprudence and Toxicology*. 22nd ed, New Delhi: Butterworths India.

Taylor Col.M.(1946) *Report of the health survey and development committee*, Vol. 3, Simla: Government of India Press.

The court of Wards Act 1879, 1920. Original text available at http://www.lawsfindia.org/pdf/west_bengal/1879/1879WB9.

The court of Wards Act 1879, 1920. Original text available at http://www.lawsofindia.org/pdf/west_bengal/1879/1879WB9.

The Indian Evidence Act, 1872. Original text available at https://indiacode.nic.in/bitstream/123456789/6819/1/indian_evidence_act_1872

The Lunacy (Supreme Courts) Acts, 1858, Act XXXIV of 1858, Available at <http://www.southasiaarchive.com/Content/sarf.145374/215399/003>

The Lunacy (District Courts) Act, 1858, Act XXXV of 1858, Available at <http://www.southasiaarchive.com/Content/sarf.145374/215399/004>

The prisoners Act, 1900, Act III of 1900. Original text available at https://home.gujarat.gov.in/Upload/The_Prisoners_Act_1900_home_1_1_1.

Wahab, A.(2003) The concept. criminal responsibility. *Journal of Karnataka medico legal society*, 11-2,pp 30-32.

-----White Swan Foundation 'Law Relating to Marriage and Mental Illness', available at: <http://www.whiteswanfoundation.org/rights-and-responsibilities/faqs/legal-faqs-law-relating-to-marriage-and-mental-illness/>

Yanni, Carla(2007) *The Architecture of Madness: Insane Asylums in the United States* , Minneapolis: University of Minnesota Press.