



**THE DEFENCE OF INTOXICATION
AND MENTAL DEFECT: A
COMPARATIVE ANALYSIS
BETWEEN INDIA AND THE UNITED
KINGDOM**

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Abstract: The defence of intoxication and mental defect has been rife with controversy within legislative, judicial and academic discourse. In addition to this, there is confusion as to the position of the law on the defence of intoxication, as well as technical and evidentiary issues surrounding its applicability. Therefore, this paper aims at analysing the law and the jurisprudence of the criminal law systems of India and the United Kingdom; in order to identify lacunas within the law, potential areas for improvement and the nature of the approaches adopted by the two jurisdictions.

Introduction:

Intoxication can be understood as a condition wherein an individual's mental faculties are inhibited or compromised, as a result of having ingested intoxicating substances such as drugs or alcohol. It is reasonable, therefore, to conclude that a person who commits an offence, while under an intoxicated state, is not functioning in their optimal mental capacity. Individuals in an intoxicated state will naturally experience a steep reduction in their capacity for rational judgement. However, the idea of allowing individuals to escape accountability for their criminal conduct, just by virtue of their inebriated state, is bound to create strife within legal and public discourse. On the other hand, legal and academic discourse

must be shaped by the letter and spirit of the law, by logic, reason and precedent. Public sentiment has no role to play within the debate.

Therefore, this paper will attempt to make sense of this controversial issue by diving into the approaches adopted by the Indian legal system as well as the British legal system. The focus will be around the approaches adopted by the Indian legal system, by first interpreting the statutory provisions of the law and then analysing the plethora of cases adjudicated by the courts. This will be done in order to trace the evolution of the law and its interpretation, so that potential flaws can be identified and a clear picture can be obtained as to the general approach favoured by the courts over this issue. Similarly, the most important judgements of the courts in England will be analysed so that a determination can be made about the preferred approach of the British legal system. This paper will finally conclude by comparing and contrast the approaches of both jurisdictions with regards to this highly complicated defence.

Indian approach to the defence of Intoxication

The Indian Legal system is a common law jurisdiction, wherein criminal law is governed by the Indian Penal Code, 1860; the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872. Criminal laws in India are body of rules that establish a framework for the conduct that is prohibited by the state and the prosecution of crimes or offences committed against the state.

The Indian Penal Code (hereinafter referred to as the IPC) is a body of criminal laws that



covers the substantive aspects of Criminal Law in India. Since this is a paper that discusses the defence of intoxication and mental defect, there will be a heightened focus on the provisos of the IPC. The utilization of the defence of insanity and intoxication has been replete with controversy as well as difficulties within the technical and evidentiary realm; within almost all jurisdictions. However, there is a necessity, within every criminal justice system, to provide a framework for legal defences that are available to a defendant if he or she is guilty of the commission of a crime. The IPC is no exception to this.

Section 6 of the IPC states that the definitions of offences provided under the IPC must be understood, *subject to* the General Exceptions to offences. The 'General Exceptions' to the offences under the IPC are laid down under Chapter IV of the IPC, which absolves the defendant of criminal liability, in the event of the applicability of the defences laid down under the 'General Exceptions'. The 'General Exceptions' provide for exceptions to criminal liability in the event of the commission of a crime; one of which is the inability of the accused to engage in the rational thought that would be necessary to restrain themselves from committing the offence¹. However, as per Section 105 of the Indian Evidence Act, 1872; the burden of proof lies with the accused, if the accused avails of any of the defences available under the 'General Exceptions', under Chapter IV of the IPC, which includes the defence of mental unsoundness and the defence of intoxication.

Section 84 of the IPC deals with the defence of unsoundness of mind, wherein it holds that no defendant will be held liable, if, at the time of the offence, they were suffering from unsoundness of mind, to the extent that they were unable to comprehend the wrongfulness or the illegality of their actions. Section 85 of the IPC deals with the defence of involuntary intoxication. It states that a defendant will not be held liable, if, at the time of commission of the offence, they were intoxicated and the substance which intoxicated them was *administered to them against their will*; which then resulted in the defendant being unable to comprehend the wrongfulness and illegality of their actions at the time of commission of the offence. Therefore, Section 85 is a defence under the General Exceptions wherein a defendant will be absolved of criminal liability if they committed an offence while their mental state was compromised due to their being intoxicated against their will.

Section 86 of the IPC will be the most important statute for the purposes of this paper, since it deals with the commission of offences by an accused who has voluntarily entered into an intoxicated state. Section 86 of the IPC states as follows:

In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which

¹ D. Sahana and M. Kannappan, *Voluntary Intoxication - As An Exception Under IPC*, 119 International Journal of Pure and Applied Mathematics, 1277, 1278 (2018)



intoxicated him was administered to him without his knowledge or against his will.

The first part of Section 86 deals with an act that is an offence only when there is requisite *mens rea* or ill-intent involved during the commission of the act. Section 86 goes on to state that a defendant who commits the aforementioned offence, while intoxicated, will be held liable in the same manner as they would have, had they not been intoxicated while committing the offence. Section 86, however, does conclude by recognizing the defence of involuntary intoxication as laid down in Section 85 and holds that only the involuntary intoxication will absolve the defendant of liability, for the commission of the offence.

Based on a prima facie analysis of the statute alone, sans case laws, it is apparent that the law does not make allowances for defendants who commit offences while inebriated, if they have voluntarily administered intoxicating substances to themselves. Reason suggests that the law declines to make an exception for voluntary intoxication, because that would pave the way for numerous defendants to ensure that they are intoxicated, before the commission of a premeditated offence, so as to escape punishment; despite possessing the *mens rea* necessary to be held liable for the commission of the offence. Thus, the lack of absolution afforded to voluntarily intoxicated defendants can be justified on the aforementioned grounds. However, this particular statute does fail to address a few scenarios. To present a few plausible hypothetical scenarios, it is entirely possible for a defendant to voluntarily enter into an intoxicated state, that would sufficiently compromise their capacity for rational judgement, subsequent to which they commit

an offence under the IPC, without the requisite *mens rea*. There is also no distinction made between the commission of offences due to the voluntary consumption of alcohol and offences that are committed by an intoxicated person who is addicted to intoxicating substances like alcohol and drugs. The statute does not discuss whether the latter scenario would absolve the defendant of liability, or, at the very least, reduce the culpability of the defendant. Additionally, it is also plausible for a defendant to accidentally ingest an intoxicating substance, after which they commit an offence while their mental state was compromised to such an extent that they were unable to comprehend the wrongfulness of their actions. The statutes within the IPC, however, remain silent on the aforementioned issues and only address the two scenarios of committing an offence while intoxicated, either voluntarily or involuntarily. Admittedly, the issue of the defence of intoxication is highly complex and it will, quite understandably, be rather difficult to cover all possible scenarios through the statutes. However, the ambiguity present within the IPC, as it pertains to the defence of voluntary intoxication, has resulted in an unfortunate lacuna within criminal law statutes in India. This issue must, therefore, be tackled through the development of jurisprudence via case laws and rigorous academic discourse. It will, therefore, be pertinent to analyze the prevailing case laws, in order to arrive at a clear determination of the approaches adopted by the Indian legal system, to the issue of the voluntary intoxication.



The case of *Basdev vs The State Of Pepsu*² is a landmark judgement dealing with the defence of intoxication, that was adjudicated by the Hon'ble Supreme Court of India on 17th April, 1956. In this case, the appellant accused, Basdev, had gone to a village for a wedding, wherein he consumed copious amounts of alcohol, that resulted in his intoxication. The accused had subsequently asked a boy at the wedding to move aside so that the former could occupy a more comfortable seat, but the boy did not move, upon which the accused promptly withdrew a pistol and shot the boy in his abdomen. The boy succumbed to his injuries. The issue before the court, in the present matter, was whether the accused was liable for murder, as per Section 302 of the IPC, or whether the accused was liable for culpable homicide not amounting to murder, as per Section 304 of the IPC. In the present case, the court ultimately held the defendant liable for murder, because the court determined that, while the defendant might have been intoxicated, his mental faculties were not so severely compromised so as to render him unable to form the requisite intentions and comprehend the wrongfulness and illegality of his actions.

This particular judgement is highly pertinent to the interpretation and analysis of the defence of intoxication, as per Section 85 and Section 86 of the IPC. Similar to the determination made in this paper, as discussed above, the court had also come to the conclusion that the phrasing of Section 86 of the IPC is incomplete and leaves certain questions unanswered, as it pertains to the second part of the statute, which deals with the knowledge of the accused. The court

noted that, while knowledge of the wrongfulness of the act must be attributed to the accused who is voluntarily intoxicated in the same manner as you would an individual who commits an offence in a state of sobriety; the statute remains silent as to how one ought to approach the intent and mens rea of the accused in such situations and if it would be permissible to attribute the same mens rea to the voluntarily intoxicated offender, as you would an offender who is not intoxicated. The court relied heavily on jurisprudence from England to make a determination as to this issue. In this case, the court, relying on the decision of Coleridge J. in the case of *R. v. Monkhouse*³, noted that it would indeed be difficult to look into a man's mind and know his intent, due to which his intentions must be determined by taking note of his words and actions, with more emphasis on the latter. The court also relied on the aforementioned judgement to hold that drunkenness is no defence to a crime and when it is available as a partial excuse to a charge, then the onus is on the defendant to prove it. There may be times when the accused's mental faculties are so severely compromised on account of their inebriated state that they are unable to comprehend the wrongfulness of their actions, but the onus lies on the defendant to prove it; moreover, the actions of the accused, surrounding the commission of the offence, must be taken into account, while determining whether they had the pre-requisite intentions or mens rea to commit the offence. Moreover, the court, while relying on the aforementioned judgement, noted that merely taking note of the fact that the accused would lose a certain amount of self-control on account of their inebriated state, does not absolve them of the responsibility of facing

² 1956 AIR 488

³ (1849) 4 Cox CC 55



the natural consequences of their actions. Additionally, the court also relied on the English judgement of *Rex v. Meakin*⁴ to note that, in the present matter, the nature of the instrument could be utilized to infer ill intentions on the part of the accused. When a weapon as dangerous as a gun is utilized, then no amount of drunkenness can dilute the mala-fide intentions of the accused. Sometimes, the nature of the actions of an accused can make it such that there is no doubt left as to the intentions of the accused⁵.

Therefore, in the present case, the analysis of the court reveals that, while the courts will not absolve a voluntarily intoxicated defendant of liability, the courts will still consider the facts and circumstances of the particular case when it comes to determining the intentions of the accused, which becomes relevant for the purposes of sentencing and deciding the appropriate punishment. This case was a landmark judgement that was relied on by courts all over the country, to make a determination in other cases involving the defence of intoxication. In the case of *Prabhunath v. State*⁶, the court relied on the *Basdev*⁷ case, wherein it explicitly stated that a state of intoxication and drunkenness has no bearing on the knowledge credited to the accused; which is to say that if an accused is aware of the natural consequences of his actions, then it must be presumed that the accused intended for it to occur. The *Basdev*⁸ case was relied upon again in the *Mavari Surya Satyanarayana vs State Of Andhra Pradesh*⁹

case, wherein the accused was held liable on the grounds that his intoxication could not have resulted in a complete loss of rational judgement. This was because his mala-fide intentions can be inferred from his deadly actions of pursuing the victim to pour kerosene on her and set her alight; regardless of his inebriated state. The courts arrived at a similar conclusion in the case of *Venkappa Kannappa Chowdhari v. State of Karnataka*¹⁰, which had a similar set of facts and circumstances, wherein the accused had poured kerosene on his wife and set her on fire while he was in an intoxicated state. The courts had held him liable for murder because of his voluntary intoxication.

It is pertinent to note, in both of the aforementioned judgements, that the defendants were both alcoholics. However, their alcoholism did not serve as a mitigating factor or absolve them of liability. It has been noted that alcoholism has a deleterious impact upon the brain and the behaviour of the alcoholic¹¹, however, based on an analysis of Indian jurisprudence regarding the defence of mental intoxication, it is apparent that alcoholism will not absolve a defendant of criminal liability, especially since being an alcoholic cannot compromise one's capacity for rational judgement to such an extent that one cannot recognize the wrongfulness of their actions. In addition to this, Indian courts recognize that medical insanity and legal insanity (regardless of the reason for the insanity) are two different

⁴ [1836] 173 E.R. 131

⁵ Supra note 3

⁶ AIR 1957 All 667

⁷ Supra note 2

⁸ Ibid

⁹ 1995 (101) CRLJ 689 AP

¹⁰ 1996 Cri LJ 15 (Kant)

¹¹ Edith V. Sullivan, Ph.D., R. Adron Harris, Ph.D., and Adolf Pfefferbaum, M.D., *Alcohol's Effects on Brain and Behavior*, Alcohol Research Current Review, (18th May, 2020; 4:00pm), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3625995/>



things¹²¹³ and an individual who is suffering from medical insanity is not exempted from legal and criminal liability by default.

A more recent decision, by the Hon'ble Supreme Court of India, in the case of *Bhagwan Tukaram Dange vs State Of Maharashtra*¹⁴, dealt with a similar fact matrix to the aforementioned cases wherein the accused had lit his wife on fire with kerosene and a match on account of his intoxicated state. In the present matter, the court held that intoxication cannot be a ground for the reduction of a murder charge into one of culpable homicide. The court also noted that intoxication, in and of itself, cannot be considered to be a defence to a criminal charge. However, it can be considered to be a mitigating circumstance if the accused is not habituated to drinking, but otherwise, it must be considered to be an aggravating circumstance.

This paper contends that the Hon'ble Court has erred in the aforementioned judgement, by making a sweeping recommendation that habitual drinking must be considered to be an aggravating circumstance. While it is reasonable for the courts to be reluctant to absolve defendants of liability on the grounds of voluntary intoxication, this paper opines that it would be undesirable to always consider habitual drinking to be an aggravating circumstance. This is because alcoholism, which is the habitual and chronic consumption of alcohol, has increasingly been recognized as a disease. In the year

1956, the American Medical Association (AMA) recognized addiction, to substances such as alcohol and other drugs, to be a disease. This view affirmed by the US Supreme Court, in the cases of *Budd v. California*¹⁵ and *Powell v. State of Texas*¹⁶, wherein the courts affirmed the view that alcoholism is a disease. While this paper is not claiming that an accused ought to avoid facing liability for his criminal actions on the account of intoxication due to alcoholism, at the same time, it would not be ideal to consider it to be an aggravating circumstance, at the very least, since alcoholism; like most other diseases, is highly difficult to overcome. Therefore, according to this paper, it would be more beneficial to view alcoholism as a disease like any other which requires treatment, not as an aggravating factor as it pertains to sentencing for crimes. It would be far more optimal to adopt a reformatory approach and provide alcoholic defendants with the rehabilitation and treatment necessary to combat their disease, while holding them accountable for their actions at the same time, in the form of incarceration.

While Indian Courts are, by and large, do not allow defendants to avoid punishment on account of voluntary intoxication and are also, generally, reluctant to grant a reduced sentence on account of voluntary intoxication, there has been a case wherein the court did lay out the conditions wherein the defence of voluntary intoxication could be accepted. In the case of *Mubarik Hussain*

¹² Surendera Mishra Vs. State of Jharkhand, AIR 2011 SC 627

¹³ Suresh Bada Math, Channaveerachari Naveen Kumar, and Sydney Moirangthem, *Insanity Defense: Past, Present, and Future*, Indian J Psychol Med. 2015 (18th May, 2020; 4:00pm),

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4676201/>

¹⁴ (2014) 4 SCC 270

¹⁵ 385 U.S. 909 (1966)

¹⁶ 392 U.S. 514



*v. State of Rajasthan*¹⁷, the court noted that the defence of ‘drunkenness’ or intoxication could be availed by the accused only if the intoxication resulted in the accused being completely and wholly unable to form the requisite ill-intent for the commission of the criminal act. However, the burden of proof to establish that would lie with the accused. In the aforementioned case, the court declared the actions of the defendant to be “brutal and diabolical”, due to which ill-intent was inferred and the accused was held liable. This paper agrees with the determination of the Hon’ble Court in the aforementioned case, however, it is still pertinent to note that the socio-economic background of the defendant would still play a huge role with respect to their ability to prove their case, due to which this defence might not be available to every defendant in practice, since an underprivileged defendant would not be able to hire the best medical and legal practitioners necessary to prove their case with the rigor that this particular defence demands.

The aforementioned issue has been mitigated somewhat, by the judgement of the Hon’ble Supreme Court in the recent case of *Devidas Loka Rathod vs The State Of Maharashtra*¹⁸. This case was decided on July 2nd, 2018; that in the cases where the accused avails of a defence under the General Exceptions under Chapter IV of the IPC, the accused need not prove their case beyond all reasonable doubt. The standard of proof is not as rigorous as it is for the Prosecutor. The accused is required to establish their defence only on a “preponderance of probability”. This paper contends that the aforementioned judgement is a welcome ruling and will make it easier

for underprivileged defendants to establish their case as well. As per Article 21 of the Constitution of India, no citizen shall be deprived of their liberty, except according to procedure established by law. In a fair criminal justice system, the accused must be afforded the benefit of the doubt and it should necessarily be difficult to incarcerate citizens and deprive them of their liberty; in order to prevent the occurrence of a totalitarian state and to abide by the values and the Basic Structure¹⁹ of the Constitution of India.

Therefore, based on the statutory provisions and the case laws discussed, it is apparent that Indian Courts are, quite understandably, reluctant to recognize the validity of the defence of intoxication, when the intoxication is voluntary. However, they also tend to maintain the position that every case must be analyzed on its own merits, based on the surrounding facts and circumstances. The courts are willing to either absolve, or at least mitigate, the liability of the accused, if the voluntary intoxication is so extreme that it renders the defendant wholly incapable of possessing the mens rea or intent necessary to commit the offence. Moreover, the courts also ensure that, while the text of the statute is adhered to, that it will also interpret the text of the statute in a critical fashion and also adapt the text of the statute to the prevailing circumstances in every individual case.

The jurisprudence of the United Kingdom on the defence of Intoxication

Similar to India, Britain follows a common law system. British jurisprudence has been instrumental in shaping the framework of criminal law in India. Therefore, it is highly

¹⁷ (2006) 13 SCC 116

¹⁸ CrI. Appeal No. 814 of 2017

¹⁹ Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461



pertinent to analyze the most important cases in Britain, as it has been fundamental to developing Indian jurisprudence on the issue of the defence of Intoxication. As discussed earlier, the landmark Indian judgement of *Basdev vs The State Of Pepsu*²⁰ relied heavily on the decisions made in England, to arrive at its determinations. Some of those cases will be discussed below, in addition to other important cases under British law, in order to get a clearer picture of how British jurisprudence tends to approach the issue, as well as the similarities and differences between the Indian approach and the British approach to the defence of intoxication.

The leading judgement of *R v. Meade*²¹ was adjudicated prior to the judgement of *DPP. v. Beard*²², wherein the defendant was held liable for murder. This judgement was referred to in the landmark Indian judgement of *Basdev vs The State Of Pepsu*²³. This case is important, from the perspective of British law, because of the principles laid down by the court. The court determined that there is an implicit presumption that a defendant is well aware of the consequences of his actions. However, this knowledge is not presumed in the case of defendants who are insane. Therefore, if the defendant is so severely intoxicated and mentally compromised that they are unable to form the ill-intent necessary for the commission of the offence, then they will not be deemed to be aware of the natural consequences of their actions, due to which their liability for the offence should be reduced to manslaughter, in the case of the defendant being prosecuted for killing a victim. However, in the *DPP v.*

*Beard*²⁴ case, while the House of Lords did agree with the ruling and the determination of the *R v. Meade*²⁵ case, they did claim that the aforementioned judgement stated the law far too broadly and it could potentially have the inadvertent risk of defendants deliberately intoxicating themselves so much that they could claim the defence of being unable to form the intent necessary to commit the crime.

Thus, after the case of *R. v. Meade*²⁶, the case of the *Director Public Prosecution v. Beard*²⁷ came into the forefront, as a leading judgement within British law, wherein the appellant was held liable for murder. The accused was attempting to rape a girl and, in an effort to silence her, pressed his thumb on her throat and accidentally killed her in this process. The defendant was also intoxicated at the time of commission of the offence. The Court of Criminal Appeal had initially convicted the accused of manslaughter; however, the House of Lords overruled that decision and restored the conviction for murder. In this case, the House of Lords ruled that the defendant could not avail of the defence of intoxication and his reckless actions established the requisite mens rea for the commission of the offence, regardless of whether or not he actually intended to kill her. However, this case is a leading judgement under English law, because it laid down certain principles as it pertains to availing the defence of intoxication and mental defect.

Firstly, the House of Lords determined that; when a specific intent is an essential element

²⁰ Supra note 2

²¹ (1909) 1 K.B. 865

²² 1920 A.C. 479

²³ Supra note 20

²⁴ Ibid

²⁵ Supra note 21

²⁶ Ibid

²⁷ Supra note 22



in the offence and is an essential ingredient for holding the defendant liable, then, the state of drunkenness of the defendant and its impact on the defendant's ability to form the intent must be taken into account. If the defendant was intoxicated to such an extent that they would be unable to form the requisite intent or mens rea for the commission of the offence, then they ought not be held liable for the commission of the offence. The court was clear that, while drunkenness is no excuse for the commission of an offence, the extent of the drunkenness may be such that it is rendered incompatible with the ability to form the mens rea and intent necessary to commit such a crime; due to which the defendant cannot be held liable.

Secondly, the House of Lords noted that an insane person cannot be convicted, regardless of the cause of the insanity. If the defendant was rendered so insane as to be unable to comprehend the wrongfulness and illegality of their actions, regardless of the fact that it was the excessive drunkenness that caused the insanity, then the defendant cannot be held liable for the commission of the crime. The court made a distinction between drunkenness and the diseases caused by drunkenness and if the latter resulted in madness that severely compromised the mental state of the defendant to the point where they are unable to comprehend the wrongfulness and illegality of their actions, then they cannot be held liable.

Thirdly, the House of Lords held that the evidence for the intoxicated state of the defendant that compromised their ability to engage in rational judgement, must be analyzed in conjunction with the other facts

and circumstances of the case, in order to determine whether the mental state of the defendant is compromised enough to absolve them of liability. This is similar to the judgement of the courts in the old British case of *R. v. Monkhouse*²⁸, wherein the court had held that, while it would be impossible to look into someone's mind and determine what their intentions are, within criminal law, the intentions of the defendant must be determined based on their words and actions. In the event that the defendant does not make a statement, then their actions must be relied upon to arrive at a determination as to intentions. The court held that Criminal law operates on the principle that individuals must face the natural consequences of their actions. The court also noted that, sometimes, the nature of the actions of the defendant and their consequences are so apparent that there can be no doubt left as to the intentions of the defendant. This principle was later affirmed in the case of *Rex. v. Meade*²⁹.

Fourthly, it was held that merely establishing that the mental state of the defendant was impacted by the intoxicated substance such that their mind was operating less optimally, will not absolve the defendant of their liability and will not allow the defendant to avoid incurring the natural consequences of their actions.

Later on, the British courts, in the case of *D.P.P. v. Majewski*³⁰, for the very first time, distinguished between the concept of basic intent and specific intent. Basic intent crimes can be understood as crimes that can be committed either intentionally or through an act of recklessness, such as manslaughter, rape, malicious wounding or assaults without

²⁸ Supra note 3

²⁹ Supra note 21

³⁰ (1976) UKHL 2



intent. Specific intent crimes can be understood as crimes wherein a mental element of mens rea is crucial and must be established in order to hold the defendant liable for the commission of the offence, such as murder, robbery, wounding with intention, destroying property with ill intentions and so on. In this case, the House of Lords had determined that the defence of voluntary intoxication will not be available in the cases of crimes requiring only basic intent, because the recklessness of the action of intoxicating oneself will be enough to satisfy the intent requirement of basic intent crimes. The defence of voluntary intoxication will be applicable only in the cases of crimes of specific intent, because the latter requires a much stronger element of mens rea. The court did note that while there was no strict definition of what constituted a basic intent crime and a specific intent crime, it was determined, as a general rule of thumb, that if the mere action of recklessness was enough to attribute ill-intent and criminal liability to the defendant, then that offence could be determined to be a basic intent offence; for which the defence of voluntary intoxication will not be applicable. This paper believes that English law is highly prudent for adopting this distinction and Indian courts would highly benefit from adopting a similar principle.

Conclusion:

Therefore, in conclusion, it is evident that British law tends to take a position that insanity, in and of itself, is a valid defence to a crime, regardless of what caused the insanity in the first place. This is distinct from Indian Criminal Law, that, by and large, tends to prioritize the reason for the insanity and is not so quick to disregard the fact that it

was the defendant's intoxication that caused the diminished mental capacity in the first place. Both legal systems are still, nevertheless, reluctant to absolve voluntarily intoxicated defendants of their liability, except in cases where the intoxication has compromised their mental state so much that they cannot possess the requisite mens rea to be liable for the commission of the crime. Both legal systems grapple with the inherent challenges that occur with lawyers and judges making a determination on the mental state of the defendant, when they lack the medical training necessary to make that determination. Despite the fact that legal insanity and medical insanity are two separate issues, the fact remains that the determination of the actual mental state of the defendant is best done by a medical professional. The determination as to whether that mental state renders the defendant liable for the offence is best done by a judge. However, the lack of medical expertise of the lawyers and judges make this process even more challenging. Both legal systems also face similar problems, albeit to varying degrees, around the ability of all defendants to put forth an equally rigorous defence with this issue.

Ultimately, it can be determined that both legal systems consist of significant similarities and overlap in terms of their approach to the defence of mental intoxication, since Indian law has been extensively derived from the British legal system, on account of colonization. However, this paper contends that British criminal law tends to confer far more clarity and is a lot more binary in its approach to the circumstances within which a voluntarily intoxicated defendant will be absolved of liability. Thus, Indian Criminal law would



highly benefit from continuing to adopt and derive inspiration from the British Criminal Law system, so that the complex issue of the defence of voluntary intoxication may be adjudicated with a clearer framework in place.

