

Legal Reforms and Lunacy in Colonial India: Its Representations in History and Literature



Kyamalia Bairagya

Assistant Professor in the Department of English, Turku Hansda Lapsa Hemram Mahavidyalay, Mallarpur, Birbhum

ABSTRACT: The British were involved in the act of passing laws during their reign in colonial India. According to the laws passed in England, a lunatic was described as a person who had lost the use of reason either from grief or any other accident. England was already going through a practice of establishing asylums for the lunatics since the eighteenth century. The first mental hospital in India is recorded to have been established in 1600 by the East India Company. The first asylum in Bombay was established in 1745 and the second asylum was established in Calcutta in 1784. Besides this the passing of the Lunacy laws in England also necessitated the implementation of similar kind of laws for the lunatics in Colonial India as well. According to Waltraud Ernst, around 15- 20 lunatic asylums were built in British India by the late 1840s. However, there was an introduction of Western psychiatry in the field of legal reforms for the lunatics in colonial India in the nineteenth century as well. The process behind the implementation of legal reforms talks about the colonizer's attempts at regulating the body through various laws. The literary representation of lunacy in colonial India provides the social and other broader aspects of lunacy in a more complicated manner. This paper will try to analyze the various implications of the representation of legal reforms and lunacy in colonial India both in history and literature.

KEYWORDS: lunatic, asylums, psychiatry, the body, lunacy

The concept of lunacy has been existing long before it could be documented in legal and socio- cultural narratives of the European nations. According to the fifth volume of Judicial and Statutory Definitions of Words and Phrases 1905,

“Lunacy” is that condition or habit in which the mind is directed by the will, but is wholly or partially misguided or erroneously governed by it, or it is the impairment of any or more of the faculties of the mind, accompanied with or inducing a defect in the comparing faculties. . . The term “lunacy” includes both mania and dementia. . . Lunacy is a total deprivation or suspension of the ordinary powers of the mind. . . The word ‘lunacy’ was originally used to designate periodical insanity, but it is not confined to that meaning now, and is generally regarded as having the same extent of meaning as the word “insanity”. (p. 4259)

The definition of lunatic in the same text holds ‘a person of unsound mind’, ‘every idiot, non compos and insane person’, ‘every person of unsound mind, whether he may be such from his nativity, as idiots, or become such from any cause whatever’, ‘every species of insanity or mental derangement’ and ‘all persons of unsound mind’ (Judicial and Statutory Definitions of Words and Phrases, 4260). The colonial set up of India had indeed encouraged a large number of legal and penal reforms with the objective of establishing a mechanism of strong administration in the upcoming years. Major architectural establishments were built by the English to contain the lunatics and these establishments were called as asylums. The representation of lunacy and legal reforms in the social and cultural history of British India provides a structural analysis of the colonizer's attempts to administer the growing unruly population in the colonies like India and also within their own nation. This paper will be primarily divided into two parts. The first part will talk about the general perception of lunacy which was prevalent in colonial India and about the legal reforms associated with the confinement and treatment of the lunatics by focusing upon the history of legal reforms for the lunatics in British India. The second part of this paper will talk about the literary representations of madness or insanity in British India and an attempt will be made to make a comparative analysis of the historical and literary representations of the legal reforms and lunacy in colonial India.

Shilpi Rajpal's work on madness provides the history of asylums in India. Asylums were indeed one of the major infrastructural developments in this respect. According to Shilpi Rajpal, asylums in India were set up primarily in the latter half of the eighteenth century. She talks about the earliest asylum of 1745 in Bombay and about the next two remarkable asylums of Calcutta

Legal Reforms and Lunacy in Colonial India: Its Representations in History and Literature

and Madras in 1787 and 1794 respectively as part of legal reforms meant for the lunatics (Curing Madness, Introduction, para 2). Although Shilpi Rajpal's study is more about psychiatry in colonial North India, she provides great details of the mental asylums established in colonial India since eighteenth century. It is however clear from her narrative that the legal reforms for the lunatics in colonial India was only another means of exerting social control in the administration of the colonized nation as she writes

Asylums marched along with colonialism in India. Much before the consolidation of imperial power, the incarceration of the insane became a widespread phenomenon. . .

The histories of the establishment of the lunatic asylums are not uniform. The asylums grew in number along with the expansion of the empire. By 1802, the Governor in Council ordered the establishment of five lunatic asylums in the Bengal presidency. (Rajpal, 2020, Legal Insanity)

As the establishment of asylums in colonial India was only an extension of the legal reforms of eighteenth-century England, it would perhaps be necessary to consider the extent of developments which were taking place over there simultaneously. The Poor Law of Lunacy (1999) by Peter Bartlett offers a detailed history of the plight of Lunatics and their treatment both in legal as well as medical terms. In its attempt to explore the importance of Poor Law in the field of lunacy, the book highlights the importance of legal measures for the purpose of the handling of lunacy as a concept derived from judicial legislatures. Two sides of the problem of lunacy have been highlighted in this book along with the necessity of the establishment of asylums to solve the dual problem of lunacy in both legal and medical terms. The writer talks about 'the four legal strands' or 'of four distinct legal structures' of nineteenth century England, which were implemented for the "confinement of control of the insane specifically" (Bartlett' 9). Among the four traditions the first and most primitive of all was the practice of empanelling a jury to decide whether the subject was a lunatic or not. In case of the subject being declared insane, he or she was directly placed under the care of the Crown and this tradition was carried on into the nineteenth century when the subject and his belongings were put under the care of a family member. The second type of arrangement referred by Bartlett is that for the criminal lunatics who were supposed to be tried for the acts of criminality and thus held for an 'undetermined period' (The Poor Law of Lunacy 9). The third kind of arrangement was the private madhouses for the lunatics who were inspected by "Justices of the Peace outside London, but by a new board of commissioners, the Metropolitan Commissioners in Lunacy, within London" (9-10). The fourth kind of arrangement as provided by the above text was the county asylums which were constructed on the county rates and these were administered by the county justices. According to Bartlett the confinement in these county houses were administered by the county Justices. Although there are no such references of colonial India in Bartlett's work, the great details about the implementation of the Poor Laws for the confinement of lunatics within England in the eighteenth and nineteenth century provides us with an idea of how the English were framing their lunacy laws as well as Bartlett claims, "The 1834 Act in theory did not affect lunacy. The county asylums legislation was essentially un-amended between 1828 and 1845, and even the 1845 Act did not alter the basic managerial structure of asylums. The 1834 Act was pivotal in other ways (p.20)

The establishment of asylums and other legal reforms in colonial India were a continuation of similar efforts already at work in Augustan and Victorian England. A proper representation of the history of legal reforms for lunatics in Colonial India can be found in Richard M. Duffy and Brendan D. Kelly's India's Mental Healthcare Act, 2017. This book traces the journey of the mental healthcare policies from a pre- history of the Mental Health Law. He brings the reference of the Bible in which King David had pretended to be mentally ill in order to escape from Gath when he was in danger. They also refer about Buddha's treatment of people with mental illness in a compassionate manner as early as 500 BC and also about Indian Ayurveda since the thirteenth century. Interestingly, this book talks about the influence of Europeans on the subject of treating people considered to be medically insane as early as the sixteenth century. In case of India the legal reforms consisted of the passing of certain laws by the British.

There were no large institutions housing people with mental illness. Prior to British rule, families cared for the mentally ill (Sharma 2006). Large scale modern psychiatry, when it developed, mirrored the British asylum system (Mishra et al 2018), although it is debated to what extent these 'madhouses', asylums and hospitals were used by native Indians as opposed to merchants, soldiers, travelers and affluent Indians (Verma 1995). (50)

According to Duffy and Kelly, the first asylum in India was opened in Bombay in 1745, when a small ward was meant for the lunatics.

The first asylum in India opened in Bombay in 1745, when a ward in Bombay hospital was set aside for lunatics. This was followed by developments in Calcutta, where a hospital for the treatment of people with mental illness was opened in 1784. Few additional asylums were constructed until the Lunatic Asylum Act, 1858, which led to the opening of multiple facilities across India (e.g. in Agra in 1859). By 1900 26 asylums were being run by the Indian government and the numbers resident in Such institutions grew accordingly. (Duffy and Kelly, p.51)

Legal Reforms and Lunacy in Colonial India: Its Representations in History and Literature

The treatment of people with mental illness in India did not have any proper legislative provisions until the middle of the nineteenth century as it was only from 1851 that legislation in this field was actually introduced. The history of legislative reforms for the lunatics or mentally unhealthy people in colonial India actually coincided with the major political incidents of the nineteenth century (p.51). The legislations were introduced during the rule of the East India Company as the “first piece of mental health legislation introduced was the Lunatic Removal Act, 1851 (p.52). This Act was an attempt to remove mentally ill offenders from India to England as it was thought by the British that the Indian climate was responsible for causing lunacy among the British soldiers and settlers in India. This Act proposed the removal of unsound minded criminals of European origin to parts of the United Kingdom and they would thus fall under the Criminal Lunacy Act 1800 (p.53). After the administrative powers over India were transferred to the Crown in 1858, it was realized that the entire process of transportation of the unsound criminals was highly expensive. Thus the necessity of increasing the number of asylums within British India was largely felt by the English rulers (Duffy and Kelly, p.53) and the number of asylums was increased by English. It has to be noted that the act of confining the insane or the lunatics was an act of doing away with the ‘deviants’ from the society. Duffy and Kelly talks about the three legislative measures passed in 1858 which addressed the problem of lunacy as an issue of mental health. As it says

First, the Lunacy (Supreme Courts) Act dealt with the judicial evaluation of mental health in presidency towns. These towns were the initial trading ports found by the British East India Company: Madras, Calcutta and Bombay. Second, the Lunacy (District Courts) Act, 1858 provided similar legal framework for cases outside of Presidency towns. Third the Indian Lunatic Asylum Act 1858 governed detention in Asylums. (India’s Mental Healthcare Act, 2017 p. 53)

As the legislative measures taken up in colonial India to deal with the problem of Lunacy was directly based on the English law of the time for laws like the Lunatic Act of 1845 and the County Asylums Act also of 1845 had gained much popularity for by the people. The Indian Lunatic Asylum Act was amended in later years and another important Act known as the Military Lunatic Act of 1877 was also added to the IPC after that. The Indian Lunacy Act had already gone under several amendments which continued until it was replaced by the Mental Health Act of 1987.

The representation of legal reforms for the lunatics in a socio- cultural history of colonial India is not very satisfactory owing to the lack of archival documents on the subject. S.A Pinto’s study provided in Lunatic asylums in Colonial Bombay also broadens the perspective on the plight of lunacy in Colonial India to some extent by highlighting the journey of a ‘lunatic asylum’ into that of a ‘mental asylum’. Pinto argues that the asylum systems for lunatics which were eventually turned into colonial medical enterprise were not of great success in Colonial India (8). While talking about the rising population count in these asylums Pinto writes, “At the end of 1865, there were 353 inmates in the asylums of the Presidency. In 1880, the total asylum population stood at 646. However, in the closing years of the nineteenth century, asylum population rose only by about 10 per cent. By 1900 the number of inmates stood at just 759” (8-9). Pinto also draws the Foucauldian concept of the system of confinement of individuals in the Western society. (9). He refers to Foucault’s narrative of the development as provided in *Madness and Civilization* and remarks that Foucault had traced the story of “institutional confinement to the seventeenth century when European societies incarcerated significant groups of the population whom they deemed as deviant”. Pinto also mentions the “European asylums then functioned as a system of social control for such unproductive individuals” in the European countries. Although Foucault has not talked about the colonies and the extension of legislative measures for the lunatics in the colonized nations, his concept of the creation of a disciplined body through enclosed institutions provided an important lead for many other critics in the same field. While talking about the administration of Lunacy in the colonized nations, Pinto has mentioned about a range of scholars who have concentrated on the colonial system of deriving knowledge from the inhabitants of these confinements based on the legislative reforms for the lunatics. Pinto also introduces James H. Mills and his *Madness, Cannabis and Colonialism* according to which “native asylums became sites of colonial knowledge production. Knowledge produced from these asylums served as common knowledge about Indian people” (Lunatic Asylums p.21). Mills also talks about how the local families would actually use the asylum to discipline their family members as families would take back their relatives coming from the asylums after a certain period of time. The asylums of colonial Bombay lacked basic provisions also as according to Mills, the colonial doctors would call the asylums as ‘lock ups’ (p.21). Extending Foucault’s concept of governmentality to the colonial project of administration, Shruti Kapila has mentioned about the manner in which treatment of the lunatics under the colonial rule in India can also be interpreted in terms of colonial governmentality and “it was informed by the dual motivations of maintaining order and a humanitarian concern” (Pinto, p.22). A difference was observed in the treatment of patients of Indian and European origins in these asylums built in the eighteenth and nineteenth century of Colonial India. Pinto also points out how the English had wrongly identified the ancient Indian ways of treating insanity as insufficient and superstitious so that they could construct the asylums as a means of asserting the superiority of Western medicine in the colonized nation (p.30). A detailed analysis of the mechanism of asylums in colonial Bombay provided by Pinto indeed provides a major breakthrough in the study of this subject but it is not possible to incorporate all of it in this paper.

The second part of this paper will try to focus upon the literary representations of lunacy and legal reforms in Colonial Indian Literature. Once again the problem arises with very little reference materials available on the subject. Literature of Colonial

Legal Reforms and Lunacy in Colonial India: Its Representations in History and Literature

India in this paper will mean literary works created in Bengali and English language in India during the colonial rule. Quite interestingly topics related with madness and insanity can be found in quite a few Bengali and English literature, particularly novels and short stories of the nineteenth century. But none of these texts deal with the legal aspects of handling insanity or lunacy in the truest sense of the term. Since the characters that are interchangeably called as mad or insane are never projected as medical or legal subjects in these texts, any reference to mental asylums or legislative measures are completely absent from these few texts. Insanity is shown as a social and cultural phenomena in these texts and the underlying cause are talked about but the concept of asylums as a system of legal reform is not to be found in these texts as such. Since language is a barrier in this case, focusing on Bengali literature will bring a few writers in mind.

Kaji Nazrul Islam from Bengal was an eminent Bengali poet and he is known to have become insane towards the end of his life and he had also spent sometime in the mental asylum also. The figure of the insane as a rebel appears in many of his poems but there are no references of any kind of legal or stately intervention in these poems. The figure of a visionary with the divine frenzy to speak about the suffering of Man is a subject in most of his poems which never considers lunacy as a social or legal problem. His poems speak more about the spiritual aspects of the problem rather than attaching the question of social control for better administration. He was however greatly against the oppression of the British rule as his poem “Bidrohi” or “The Rebel” is a protest against the blind religious dogmatism in the society and the characteristic of madness has been elevated to the level of being the basic quality of the rebel or visionary who desires to witness change in the society’s beliefs and practices.

Saratchandra Chattopadhyay’s representation of the alcoholic hero in his famous novel *Devdas* (1917) has provided the figure of the drinking man as protagonist whose indecisiveness and inability to cope up with his own self eventually brings an early tragic death of this character in the novel. *Devdas* is often seen as crossing the levels of sanity after getting completely drunk out of grief and despair for losing the love of his life. This kind of momentary insanity is however only represented in a glorified manner and not as a problem which might need medical or legal intervention.

Rabindranath Tagore’s short story in Bengali named ‘Sampatti Samarpon’ is about the eccentricity of the grandfather of a family who is extremely insecure about the wealth in his possession and in order to possess it for eternity locks away his grandson alive in a temple to guard his gold. The amount of criminality embedded within this act cannot be overlooked by the element of insanity and insensibility within the character of the grandfather whose activities can easily term him as a criminal with a lunatic bend of mind. The story ends without any such resolutions. It is indeed difficult to locate anything about the legal reforms in Tagore’s novels as well.

Interestingly, the theme of lunacy in colonial India finds its place in Fakir Mohan Senapati’s novel *Six Acres and a Third* (1899) with its setting of colonial India (nineteenth- century Orissa). Ramchandra Mangaraj’s greed for more land in order to become a richer zamindar turns him into an oppressive man who is shown to have little amount of kindness as he finds joy in snatching away poor Bhagia and Saria’s piece of land. Their inability to deal with the grief of the loss of their land causes the death of Saria and Bhagia (Saria’s husband) becomes a lunatic finding his place in a lunatic asylum. The novel is set in early nineteenth century and in its depiction of the lunatic as the victim of the evils of a feudal structure points toward the realistic social problems of inequality and exploitation in early colonial India.

The best example of madness or insanity can however be found in Rudyard Kipling’s two short stories which are found in the 1888 collection known as the *Plain Tales From the Hills*. The topic has been taken up by Andrew Griffiths in his essay named “Masculinity, Madness and Empire in Kipling’s ‘Thrown Away’ and ‘The Madness of Private Ortheris’”. Griffiths remarks that both the stories are about some kind of mental breakdown (p. 553). ‘Thrown Away’ is about events taking place before and after the suicide of a young British Officer posted in colonial India whereas ‘The Madness of Private Ortheris’ is about the personal crisis of a working class soldier. Both these stories are more about the underlying causes of an increase in cases of insanity in colonial India particularly in the nineteenth century. Griffith traces the discourse of colonial masculinity running behind the act of labeling a man as insane as an easy way of dissolving any chances of acknowledging the element of deviance if any. He remarks “the stories are linked by shared concerns with the relationship between aberrant behavior, imperialism and masculinity, albeit differently framed by social class” (p. 553). Griffith’s analysis however highlights the manner in which Kipling has located the “causes of anxiety and breakdown in the experience of cultural dislocation” through ‘Thrown Away’ and “the destabilizing power dynamics inherent in imperial society” through ‘The Madness of Private Ortheries’ (p. 554). Although these two texts by Kipling depicts different levels of masculinity by relating it with colonial madness and anxiety, there are no references to the various legislative reforms about lunacy which were introduced in colonial India in that period. Rather, Griffith suggests to read these two stories “alongside data from asylum records” so that these stories can reveal the “mechanisms by which key identity formations- whiteness, Britishness and masculinity – were locked into a cycle of destabilization and reassertion” (555). For Griffith, Kipling insists his readers to read of madness “as the product of incomplete or inadequately formed masculinity” and not as something “symbolically... feminine” (557) as it was a common practice among Europeans to associate lunacy or insanity with something feminine and weak in nature. These two stories highlight the amount of malpractices prevalent in the British working atmosphere to permit mental breakdown of imperial workers in colonial India. In ‘Thrown Away’, the character is unable to cope up with his troubles in a stoical manner and thus begins to display symptoms of insanity and eventually commits suicide. As Griffith remarks ‘Kipling’s narrative reinforces

Legal Reforms and Lunacy in Colonial India: Its Representations in History and Literature

the link between a failure to properly perform masculinity (a failure signaled by the way the character is referred to only as The Boy) and the onset of psychological crisis (p. 562). 'Private Ortheries' is a tale of alienation in which the protagonist is on the verge of psychological crisis due to his inability to mix with the middle class background soldiers in the army. Once again the discourse of insanity has been merged with the issues of empire and masculinity in colonial India in this text.

While trying to locate references of legal reforms in connection with lunacy in literary representations of Colonial India, it was found that there is indeed not much written about the colonial project of building mental asylums for the lunatics and the subsequent passing of lunacy laws by writers discussed in this study. Whether references are available in literary representations of any other language of British India, which can become a prospect of a similar kind of study with a broader framework, is difficult to tell. Whether the writers of colonial India were aware and yet did not choose to talk about the legal and medical issues in the context of lunacy, is a different aspect of study. The representation of legal reforms to deal with the problem of lunacy in history also had a late entrance into the academia as the scholarly texts consulted for this study belong to distinct areas from cultural history. In an attempt to study the representation of legal reforms and lunacy in history and a select set of literary works of the colonial period it has thus been found that literary texts did not have a direct or adequate amount of representation of the legislative or administrative measures to deal with lunacy in the colonial period.

CONCLUSION

It is also not possible to tell if the psycho- analytic framework of the human mind as provided by Freud in his works on the workings of the brain actually had any impact on writers attempting to represent lunacy or madness in colonial India. All the literary representations discussed above do not provide any detailed picture of the legal reforms associated with lunacy in colonial India. The importance of understanding life in lunatic asylums in colonial India or an attempt to understand the psychological complexities of the characters that end up in the lunatic asylums can be seen to be limited to the socio- economic conditions in which the characters belong. Almost no attempt seems to have been made by the writers to talk about the reformatory nature of the lunacy laws. The problem of locating madness in the society however finds its best voice in Manto's short story 'Toba Tek Singh'. Although written in post- colonial India as a critique of partition, by making an actual mental asylum the setting of the story, Manto highlights the insanity behind the political act of partition as a consequence of gaining freedom from the British. The site of the asylum is used as a dramatic setting for exploring the greater reality of the crisis associated with the historical event of partition.

The concept of lunacy or the reformatory measures associated with changes in establishments for the mentally challenged did not appear even in Manto's works. The theme of madness although taken up, has been largely considered in terms of the causes from which it has developed. The legalities involved in handling the problem of lunacy are not dealt with in the above-mentioned works of literature. Literary narratives are generally not shown to be very conscious of legal measures in most cultures. Whenever lunacy or insanity has been taken up for representation in literature, as this study makes it quite evident, the issue has been raised to just look like one particular way of dealing with the representation of the anomalies in the Indian society across all cultures. The legal policies and reforms adopted were perhaps not sufficient enough in solving the problems of lunacy in colonial India at any point of time. Historical data may point towards the exciting reformatory progress happening in this field of handling lunacy during the English rule in India, but this only shows the inadequacy of the governing strategies of the British regime. Literary representations of insanity and lunacy in spite of being fictional renderings of the subject have perhaps been able to delve much deeply into the root cause of the problem desiring actual reformation of the issue which would not only view the presence of such individuals within the society as a threat or problem, but rather view them with a more humane perspective hoping for some visionary reformation in this particular issue across the world.

REFERENCES

- 1) Bartlett, P. (1999). Poor Law of Lunacy (1999). Leicester University Press.
- 2) Griffiths, A. (2024, November 20). "Masculinity, Madness and Empire in Kipling's 'Thrown Away and 'The Madness of Private Ortheries'" Journal of Victorian Culture Journal of Victorian Culture. <https://doi.org/10.1093/jvcult/vcab038>
- 3) Mills, J. Madness, Cannabis and Colonialism: The 'Native Only' Lunatic Asylums of British India, 1857- 1900 (2000). Palgrave Macmillan.
- 4) Pinto. S.A. Lunatic Asylums in Colonial Bombay: Shackled Bodies, Unchained Minds (2018). algrave Macmillan
- 5) Rajpal, S. (2020). Curing Madness? A Social and Cultural History and Insanity in Colonial North India, 1800- 1950s. OUP.
- 6) Richard M. D. and Brendan D. K. India's Mental Healthcare Act, 2017. Bloomsbury Academic.



There is an Open Access article, distributed under the term of the Creative Commons Attribution – Non Commercial 4.0 International (CC BY-NC 4.0) (<https://creativecommons.org/licenses/by-nc/4.0/>), which permits remixing, adapting and building upon the work for non-commercial use, provided the original work is properly cited.