Conflicts of interest
There are no conflicts of interest.

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Comments on “How does India Decide Insanity Pleas? A Review of High Court Judgments in the Past Decade”

Sir,
Ramamurthy et al. examined factors associated with the outcome of an insanity plea in a convenience sample, based on data extracted from the websites of 23 High Courts in India. They concluded that the “success rate of insanity plea in Indian high courts is a modest 17.6% and, lower court verdict, documentary proof of mental illness and psychiatrist’s opinion were associated with the success of insanity pleas”,[1] In this letter, we raise concerns regarding their inferences.

The authors examined the relationship between the verdict of the lower court, documentary proof of mental illness, psychiatrist’s opinion, and High Court verdict using Pearson’s Chi-square test of independence. Pearson’s Chi-square test is a non-parametric test.
of significance used to test the relationship between nominal variables, provided that certain assumptions are met. Among these assumptions are the requirements that (1) the groups under study must be independent of each other, (2) the categories of the variables under examination must be mutually exclusive, and (3) each subject may contribute to one and only one cell in the frequency distribution table. We note that the insanity defense is almost always introduced in a trial court and not de novo in an appellate court. Thus, the verdict of the trial court and high court are repeated measures on the same subject and are, therefore, correlated; this bars the use of the Pearson’s Chi-square test.

So, what would be an appropriate test in this scenario? The question is hard to answer because the authors stated no hypotheses. For example, if their hypothesis was that there is no difference between the proportions of acquittal at the trial court and the High Court, then the McNemar test is appropriate. Alternatively, considering that the mental health team, the lower court, and the High Court are ‘classifiers’ (although not independent) of the criminal competence of the accused, Cohen’s Kappa statistic could have been used to measure inter-observer agreement.

An application of McNemar’s test with continuity correction for small sample size shows that the proportions of acquittal differed significantly between the trial court (p1 = 9/94) and the high court (p2 = 18/94) ($\chi^2 = 4.9, P = 0.03$). Using the binomial sign test, which is an alternative to the McNemar’s test for small samples (n = 94, K = 18), yields a P value of 0.0001, also indicating a statistically significant difference between the courts.

On a separate note, the authors have commented upon the “modest” success of the insanity plea in India. We acknowledge Seymour Pollack and Bernard Diamond’s arguments for impartiality and honest advocacy, respectively, about the role of the forensic psychiatrist in criminal cases. The role of the mental health professional here is to opine upon the capacity of the accused and enable the court to determine their criminal competence. Thus, where the plea of insanity is used as a defense, the role of the mental health professional is as an expert witness along the above-mentioned lines. The success rate of the insanity plea, therefore, is of less importance than the determination of the integrity of the insanity plea. What would be more relevant would be the inter-observer agreement between the forensic psychiatrist and the court verdict.

In light of the above limitations, we suggest that the results and conclusions of this study should be interpreted with caution.

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