



**CRIMINAL AND FORENSIC
PSYCHOLOGY FOR CRIME FREE
INDIA**

By Anuja Jalan

From Jamnalal Bajaj School of Legal Studies, Banasthali Vidyapith

ABSTRACT

Is crime free nation a myth? To come to a definite answer we need to explore the scope of "CRIMES". If we peep into the older pages we would eventually realize that it is very difficult to trace out the first crime committed on land. Was it the act of Adam and Eve, or it came into being with the advent of society as provided by Hobbes-Locke-Rousseau. The approach towards curbing crime in India or elsewhere has been changed with the concept of psychology being interrelated with the same. The article focuses upon the possibility and impossibility of attaining the prospective goal of crime free India. It is a comparative analysis with respect to various nations status upon our goal. The role of various forensic psychological techniques used is also a matter of great concern. The cultural base of a nation plays a vital part in determining the extent of acceptance and utilization of the novice modes in almost every field. Ultimately the perspective is the key to every discussion.

INTRODUCTION

The world comprises of stairs. Each nation symbolizes and occupies a step. A state has to begin from the bottom and rise to the top stepping upon the following stair. This is a personification of the status of the countries of this world. The thought which forms the core of this theory is that every country has

to pass through a cycle of development, initiating from being a backward or underdeveloped nation to the most developed one. But this cycle cannot be created with one-way routes only. Therefore those reaching above must fall down as well. Now, this is a question of time that whether the rising nations slides down to zero or falls freely under gravity. This above stanza makes us wonder as to the relevance of this explanation in our theme of concern. This cycle also takes with itself the phenomenon of crime commission and its transitions. This is a mere observation. At each level of development some new kind of crime gets introduced and also new techniques come to our knowledge to fight with them. Therefore in the subsequent discussion we'll be dealing with one such technique in relation to the prevailing criminal behaviour in the Indian society or elsewhere. Criminal and Forensic Psychology hasn't come to its utmost developmental age but is still exploring new arenas of itself. One such evolution recently made is in the field of prediction as to the brain activity pattern. In such scenario when there's a continuous growth in any field then it becomes more and more necessary to analyse the concept and make the maximum out of it. The approach is not restrictive to the abstraction of our theme as the ultimate solution and mode of realization of our dream country but it is critical as to the extent it can be helpful and the limit to which it is suffice. The comparison between the countries concerned in this regard enables us to frame the best policy for our country complimenting its uniqueness.

METHODOLOGY:



The methodology adopted in this paper is comparative in nature and the technique involved is deduction from already known and prevailing scenario. It is a compilation in brief of the evolution of the psychology in the field of law and its showcases in past, the aspect of crimes has also been included to an extent, further the role our topic of concern can play taking into consideration the various notions it convey. Moreover, the approach which one would eventually derive reading this paper is generalised. That is to say it is analysing the overall basis upon which the Criminal Psychology and Forensic Psychology rests and owe its emergence thereby an historical perspective can also be sensed. This paper is merely a perspective and not conclusive at all. The world is a large entity and experiments would never yield same results throughout. It will vary with place, people and perspective. The computers we use today were rubbish for olden periods as there were no resources or conditions to allow its usage. Similarly, we do not have such infrastructure to make possible the new Chinese bus run on our roads, we cannot adopt it now. Therefore, time plays a key function. The techniques seeming to be helpless today would be revived later.

DISCUSSION

Our theme suggests the reflection upon the idea of a Crime Free Country. It is a matter of great discussion. There may be clashing views as it being an abstract notion or can it be brought to reality. Crime is an inherent characteristic of society since the advent of it. There are various theories about the first crime which was committed on the land i.e. Planet Earth. A close view of these differential perceptions reveals that all these

are more or less similar in nature. They all depict the birth of human on earth and thereby he being compelled by his desires or greed committed an unworthy act which then evolved into CRIME. One such is the story of Adam-Eve in the Garden of Eden. Also taking into consideration the version of Islam about Habil and Qabil, the sons of Adam. Where Eve pluck the fruit from the tree of wisdom on the influence of the serpent, Qabil hit his brother Habil with a rock and he got killed, both the instances shows the result of man's desires. One similarity which we miss here in the two stories is that the act leading to crime was done accidentally and not deliberately. Like many other inventions which took birth by mistake of Man. The western view also inter-mixes the formation of society and origin of crime, as the Social Contract theory given by thinkers: Hobbes-Locke-Rousseau. They talk about the state of nature, in which either the criminal environment existed since the beginning or was created with the sense of property possession. All the above makes it evident that crime is such a feature or part of society which comes with the society. And this may be a valid argument that being so intrinsically related to human establishment it cannot be evicted out totally.

But this is the scenario when we only glance at the "Disputed Act". The moment we engulf the other aspects of the developing human civilization in our purview the argument does not hold good. With the evolution of criminal activities also evolved the techniques and mechanisms to curb them. Therefore, a new possibility of getting rid of this evil seems to peep out. Here comes the significance of "Criminal



Psychology” and “Forensic Psychology”. The acts or omissions which are forbidden and punishable by law are termed as Crime. It has a very wide scope. And is a difficult task to define crime in its entirety as it has many aspects and varied attempts has been made to define it but none can be considered to encompass the complete scope of it. There are numerous acts which are characterised as crime in the society, and the enumerating list is enlarging ever since the first entry. With the advancement in the technologies the crimes like the ones in cyber space, the ones involving new methods of commission etc, have evolved. In the primitive society there was not much association among the population with those of some other area, therefore such criminal activities were bound within the boundaries of each establishment but slowly these scattered civilizations merged or come to know about one another and the mediums to connect them were developed thereby allowing the spread of these offensive activities. Due to this, these acts was lifted a momentum to grow and adjust according to the differential conditions prevalent in the varied societies. The difference in the nature and circumstances led to the advent of new crimes, and even the same crimes were now committed by new methods. In spite of the absence of any account of the prevalent crimes in the ancient societies there are instances depicting application of the sealing materials upon the sacks to prevent any tampering with them. This appeals that there were some or the other kind of crimes being committed in those period of time as well. Also the Indian rulers employed officials who were specialised in the criminal investigation and the rulers used to penalize the criminals. All this reflects that there

were systems present to tackle such actions. Hence the attempt to discard these evils is been made since time immemorial and it continues till now. Despite of various attempts for the same, these crimes persists in our society. Many penalising doctrine came up as to deter crimes but the varied strategies providing for the heinous punishments (retribution), reformation, exile etc none could yield the desired result.

Further invention of advancing psychological techniques took place and again the hope for the attainment of the prospective goal rejuvenated. The discipline of “Forensic Psychology” was propounded. Etymologically Forensic is made up of the Latin term ‘*Forensis*’ which thereby relates to forum and it conveys a sense of meeting, gathering and consorted attempt upon something. In other words it means to come to a definite conclusion via a combined discussion or effort. Its meaning has transformed to an extent owing to the time lapse and its use, now one connects to court or a legal notion with the word forensic. As the term forensic indicates application of more than one field of knowledge to the justice delivery system similarly when we add an approach to it, which is psychological in nature, the concept which comes into being is Forensic Psychology. Forensic psychology is the culmination of the psychology with the legal, moreover judicial setup. It is often wrongly assumed that only some of the forensic psychological techniques like the Polygraph test, Narco-analysis, Brain-mapping etc forms part of it but it engulf everything which relates to psychological analysis in the field of law. Each and every interrogation method of the suspect or the witness which involves the



study and direct impact upon the subject's psychology can be characterised as one of it. It has been defined as "all forms of professional psychological conduct when acting, with definable foreknowledge, as a psychological expert on explicitly psycho-legal issues, in direct assistance to courts, parties to legal proceedings, correctional and forensic mental health facilities, and administrative, judicial, and legislative agencies acting in an adjudicative capacity"¹. The first case involving the use of it is 'The Three Women Murder Case', in Germany where the psychologist Albert von Schrenck-Notzing was considered to be the expert witness and his testimony was admitted². On the other hand Criminal Psychology as the name suggests is the psychological analysis of the person committed the crime. In this the study of the thought process of such a person is done. His mental wellbeing is made out as to ascertain the sanity and insanity of the criminal. Also the study takes into consideration the probability of reformation of such a criminal. Today's scientific temper, not only projects its impact upon defaulting party but also is readily accessible by the correcting agencies i.e. the investigation mechanism. But the issue behind the practicality are majorly two:

- ❖ Although it is accessible but whether or not one access it, makes a difference. This depends upon factors such as:

- The sanction by the state's legal infrastructure
- The scientific temper i.e. the mind set to adopt such a technique for the purpose
- The culture of the concerned state

- ❖ The question as to its conformity with the rights and duties of the populace derived from the principles of Justice.

The principles of Forensic Psychology are considered to be an intrusion in the privacy of the accused also as it amounts to give testimony against oneself. These repercussions of the same as posed a doubt upon the applicability of these techniques in India for analysing Criminal Psychology. Therefore, again two points of concern are raised. Firstly, is this pair of Criminal Psychology and Forensic Psychology has the potential to curb the crime rate to nil in India? Secondly, if the first is affirmative then do the Indian legal system and our societal structure would verify it? Let us analyse both the above queries simultaneously.

For the former, we need to look upon the other countries and their status upon our goal. To start with the comparative analysis, the figure 1 depicts the countries at the two extreme edges of the indexing, India and U.S. due to its contribution to our theme.

¹Committee on Ethical Guidelines for Forensic Psychologists, 1991) Specialty Guidelines for Forensic Psychologists, (p. 657).

² Prof Dr. Vimla Veeraghavan, "Inter-Relation Between Forensic Medicine And Forensic Psychology".

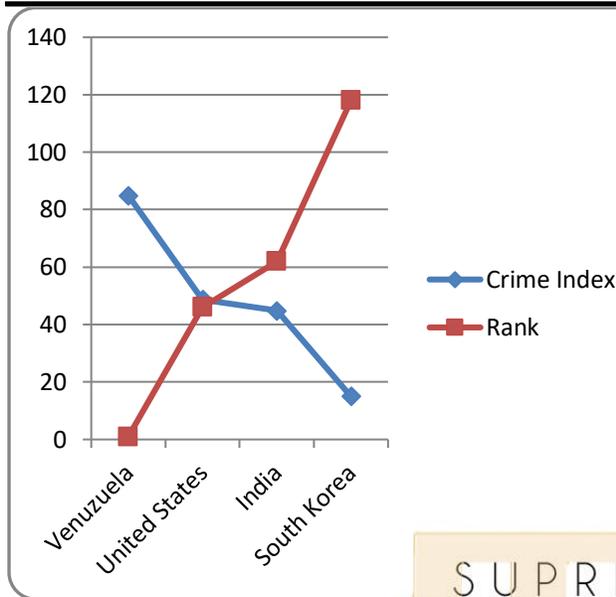


Figure 1 The Rank and Crime Index of the States in our Purview.

Venezuela has the highest crime rate as depicted by the chart. This at once invokes inquisitiveness in our mind as to the contributing reasons. Does it mean that there's no application of forensic psychology in unfolding criminal psychology in Venezuela? There are forensic departments to aid the investigating agencies, which helps scrutinize the prisoners etc psychologically. The use of the above techniques might not be popular but there are other methods to give effect to the same purpose. In fact the approach there is much torturous and pitiful whether or not sanctioned by the authority. In spite of the prevalence of an amount of such methods the problem persists and that too on the widest scale. It lacks in its system, which is far from organisation. Resulting from this the population does not have faith in the Justice Delivery Body.

South Korea: Here, the whole authority as to prosecution is laid upon the prosecutor itself, unlike many other countries like America, they have the sole decision making power as to prosecute or not. This decision is based upon investigation. And therefore there has to be a precise procedure for the same. For this, the complete study of the suspect is done whether it is the history sheet of him or the behavioural pattern. Also police has minimal say in this trail excluding the chances of ignorance and corruption to an extent. The system as a whole is very stringent and in a way inescapable.

United States of America: the first probable research upon the subject was conducted by James McKeen Cattell in 1893 at Columbia University³. Since then there are many studies been conducted in this regard and various publications were done. This discipline is evolving in USA and if we analyse the present, forensic psychology has been applied there at a wide stretch. Not only in criminal field but also in matters of employment to ascertain the honest standards and also upon agents as to get the truth about the leakage of the confidential information. Therefore, it is a great source of reference about our theme.

India: Here, although these techniques are applied but our judiciary has time and again reminded of the restriction upon them. The results of such scientific methods are of no legality until done with the consent of the subject. There is no mention regarding such techniques anywhere in the Constitution or other statutes. This hinders the ability of such methods to grow and contribute in this environment.

³Margarita Tartakovsky, "How Forensic Psychology Began And Flourished" link, dt:2016-09-16,at 9:21.

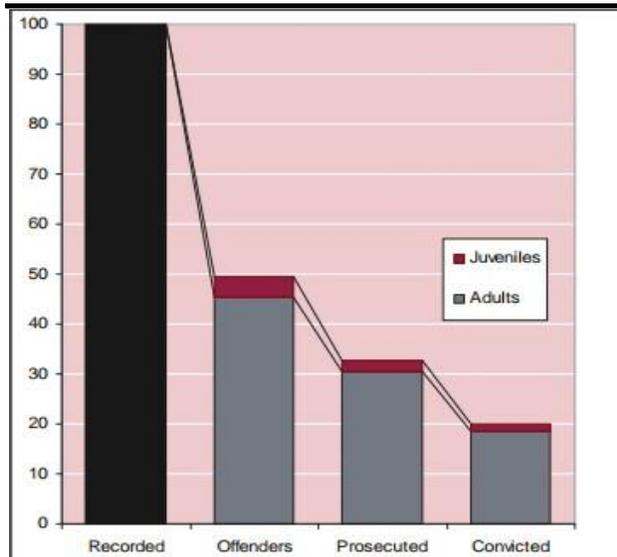


Figure 2 International Statistics on Crime and Criminal Justice

The figure 2 denotes the discrepancies in the criminal justice system clubbed. There's a huge gap between the offenders prosecuted and thereby a further gap is noticeable as to their conviction. The major reason behind the non-conviction is lack of evidence to prove the accused guilty of his offence. This is a loop hole which can act as a passage for forensic psychology to seep in. It would aid in gathering reliable evidence facilitating the ratio of conviction. For apprehension the utilization of criminal psychology can also be done.

Countries have made various legislations organising the conduct of forensic and criminal psychological tests upon people. As for example: Employees Polygraph Protection Act, 1988 of United States. Crimes(Forensic Procedures) Act, 2000 of Australia. Criminal Justice (Forensic Evidence and DNA Database System) Act, 2014 of Ireland, etc. Still there is a longer way to travel. Forensic psychology enables

to unravel many facts which create a gap in the whole picture of crime. It sometimes discloses such mysteries which become impossible to crack in the absence of any like mechanism. But its scope is not restricted to the area of bringing out truth from the subjects mouth but also helps the court in various matters, to name some: estimating the mental condition of the person while he committed the crime or at time of the trial to ascertain whether he can stand trial or not, "Psychological Autopsy"⁴ is also a part of it, also there are instances when these method saved the principle of Natural Justice or to rephrase it, these methods adopted also has potential to save from miscarriage of justice. They suggest the mental status of the convict as to mitigating factors of the sentence provided. As suggested by Reid the interrogation technique must involve two steps. In the first, the motive must be to ascertain whether the subject is lying or is the criminal or not. In the second step, as per the results of the first one, the interrogation must continue or be suspended. If it is found that the person is the culprit then the object in the step two must be his confession. This is to avoid false confessions. The study as to the real application of these proposed techniques were not satisfactory. An interview of the prisoners revealed that the humane and supportive approach of the investigator results in greater chances of

⁴ The various aspects of the deceased is studied through interviewing the persons involved i.e. family, friends etc and other factors as to rule out the reason of suicide or homicide. Investigation is conducted considering the social, physical, psychological etc possibilities.



confessions rather than the cruel and self-presumption based questioning⁵.

It is not an all new discipline but can be found in the stacked paper of history. Such methodology was applied even in the world war periods to study the psychology of the army men as for their counselling the facts which did not spill out of their mouth can be traced out and utilised for their own mental treatment. The warriors coming back from the war ground alive were so much traumatised that the state had to consult the psychologist to bring out the essential details required and also to revive their compose. Further the spies if caught were subject to such analysis either to make them confess the confidential data they intruded into or to prove their guilt.

There's an instance of 1951, as provided in the article by C.W. Muchlberger: He stated about a French case which attracted controversy in 1948, Mr. Raymond who was accused of being a Nazi Collaborator. He contented to be suffering from Apoplectic stroke causing memory loss. The psychological analysis was conducted upon him and was revealed that he is fit and fine as a horse and was thereby convicted. Also his subsequent attempt to frame the psychologist failed as it was held a mere routine check and not an assault or illegal search. Therefore there are numerous examples which indicate the adoption of these techniques in curbing crime in ancient time period.

To get rid of the crime commission in a country we need to work out the reasons

behind there occurrence at a broader strata. This would eventually lead us to come to some conclusion as to the effect which forensic psychology would bring to picture. Crimes according to various criminologists like Lombroso etc have its roots in the socio-economic conditions of the country, the physiological conditions, the biological traits and many such factors. They all are not absolute but only suggestive as the studies backing these conclusions date several years back to what conditions prevailed then. Also, the research covered a portion of criminals to rest upon the data, but it can never be denied that each man i.e. each criminal is distinct and individualistic. Therefore a generalised principle can only be regarded as a reference and not ultimate. Each and every study reveals not more than a perception so is this paper. Hence, application of the above approaches in today's scenario majorly to India appeals that the crimes observed here are caste related crimes, or due to poverty, due to lack of education people get carried away by the instigations, influence of drugs and alcohol etc. The rate of crimes like murder, robbery, riots are increasing (National Crime Records Bureau). Places as Pondicherry, Kerala occupies the topmost positions in crime rate, although Kerala has the highest literacy rate as per 2011 census and Pondicherry is somewhere around 7th in the list. This contradicting fact makes us ponder upon the real factor perpetrating crimes in India. My mind suggests me a possible reason behind this. India is in a phase of Westernisation. Indigenously the culture we belong to, is Indian, but we are struggling to fit into the shoe of some other regions on the globe. And the repercussions following such imitation are known by all. Either the new

⁵ Swedish Study in 2002.



shoe will eventually fit in our feet or we will discard it. But the time period between the two possibilities is huge, by this time we will injure our own selves. People of India or anywhere else carry with them an inevitable essence of their native place, and so it can be modified or amalgamated with other cultures but it can never be favourable to shed off it altogether. Same is happening in India. India is suffering with the same phase of transition. We are adopting characters without any modulation. Live-in relationships are prevalent in western countries but at this stage Indian society is not positive towards this change pertaining to the moral, culture and education status of India. This is giving birth to crimes like adultery, homicides etc. Alcohol, how readily are we welcoming this drink! But we have forgotten as to the reason behind the prevalence of alcohol in western countries. It is due to the weather conditions of those places, but India is itself so warm that it does not require such beverages. And its intake in such conditions is resulting in various crimes here.

Here the contention is that a gradual and moulded adoption of a trait can yield positive outcomes but those 'as it is' and against the time would always be harmful for the society. After framing out the basic reason behind increasing crime rate in India we can also pen down the measures which can curb it. The first and foremost of it is Need of Education that too through a proper system, uprising the living standards and elimination of poverty etc. There can be various methodologies to curb crime:

- By eliminating the reasons facilitating, as stated earlier. This can

be termed as social or community reformation.

- By adopting strict deterrent methods in other words by introduction of stringent punishments or may termed as deterrence mechanism,
- By strengthening and developing the mechanism to tackle such uproar, under this head we can incorporate the utilization of Criminal and Forensic Psychology. Indication is towards enhancement of probabilities of being caught & convicted.

For instance, when a student opts for selective study basing his judgment as to question in the exam upon the emphasis the paper-setter posed, and on the D-day if the table turned its edges and his judgment went in vain. He will be trapped. Similarly, the criminal minded persons try to escape the law enforcement agencies by deducing the routes which can lead them to him. Thereupon he changes his course accordingly. This is a subject matter of criminal psychology. Now if the apprehenders act as the paper-setter and avoid doing task as is expected by the criminal his attempt would also go in vain as the student. The contention is that application of criminal psychology must be of great help if utilised judiciously. At the next step would enter the discipline of Forensic Psychology.

Often some threats in the form of religious myths are associated with some trees or animal species to preserve them from ill conduct of humans, these techniques assuring the conviction of criminals can be applied to reduce the criminal activities. Culture plays a vital role in the acceptance



or rejection of any novice technology or concept. When it comes to India we can carve out many stories providing the link of psychology to ancient India. Glancing back at our ancient mythology and fantasies we see numerous occasions when the minds of people were peeped into by others. As lord Krishan analysing the thoughts of evil minded demons, episode of Sudama, the narration by Sanjay of the War Of Mahabharata were also psychological phenomenon. The children comics almost everyone read, depicts various specimens which come to reality after decades. They depicted creatures which sucked in all the memories out of one's mind, the learned men can read the mind of the others and also confessions through hypnosis were stated. This provides us a definite background and root on which we can base our application of new methodology and work prospectively for the attainment of our goal.

RESULT:

It is quite evident now that the Criminal Psychology and Forensic Psychology can be made one of the pillars to support the criminal justice delivery system of India or any other nation. But also it is obvious that no architecture can subsist only with the aid of a single pillar. It will require some more of its kind. A sound societal structure combined with its acceptance of the new method of tackling issues, an encouraging legal spine and a flexible outlook are the minimal requirements. India is not diverse just in theory but it is even more diverse than one can imagine from outside. It is the virtue which serves as India's jewel. Another jewel is its population. I don't agree to people who consider it as a problem. If

we make it our strength then no other country will have the potential to surpass the human capital of India. With the huge population comes the diversity owing to the varied religions, sects etc. This has a twofold impact upon the subject. Firstly, the conflicting interests and the cultural differentiated norms which may withhold the growth of new incorporations. Secondly, the positive impact would be the number of brains which we have to work upon not only on our theme but the new emerging trends, each will have a distinct idea and approach pertaining to their culture. And such a method will be the one accepted by majority. Also the former if transformed can be favourable for us as a close look reveals that every culture in India culminates to the same destination, the conflicts that exists is not emerged but deliberately created. If we deduce the possibility of a Crime free nation after all the above overlook of the system, we come to a conclusion that yes, the crimes can be mitigated or its rate can be suppressed but it cannot be eliminated from any society as a whole. And the reason being the very first man on earth. Every unit on earth has two faces, and depending upon the perception of the onlooker, one seems him to be good and which is left is bad. Hence, both these properties come with the thing itself and it can never escape the attributes associated with it.

But the attempt to create a crime free nation is not futile it is the medium to attain the end of reduction in crime. The fundamental behind is that the goal which is to be achieved must always be higher. And in the exercise of its attainment, the rest automatically comes in hand. Munsterberg



in his treatise⁶ has elaborated the numerous ways a psychologist can aid the legal system. Mere sanction, acceptance and use of criminal and forensic psychology are also not enough. If it was so, U.S. must have occupied some other position in the crime indexing list. But it definitely facilitates our purpose.

I would suggest the incorporation of strict personalised penalties for the perpetrators and a strict adherence with the established rules. This does not deny the need of flexibility in the system. Observing South Korean projects viability of providing the authority to a body with no intrusion in their exercising of such power, but still the mechanism of check & control must be present. It ensures the fulfilment of the objective. Always a perfect balance is favourable, a slightest tilt at one side has the potential to rotate the disc a 360 degrees towards itself. So is the case with flexibility and rigidity.

I have not been a student of psychology but studying some of the aspect of it for this paper made me realize the role of the discipline of psychology in the human society. This discipline has unfolded many mysteries and unknown scientific facts about the human species. It is the non-working brain which leads to one's death and it is the brain which makes possible the realization of life. Therefore only the real functional unit of a living body is the brain, which is the subject of psychology. The argument here is that the reason for crime commission and withdrawal is itself the subject-matter of psychology. And hence there is no dilemma as to the crucial

prospective part which criminal and forensic psychology would play in this field.

⁶"On The Witness Stand"1908.