



LAY PERCEPTION OF PSYCHOPATHS AND ITS EFFECT ON LEGAL JUDGEMENT

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Abstract

Although prior studies have discussed the lay perceptions of psychopaths on their social life, little is known about its effect on their tendency to commit crime hysterically which has a negative effect on legal decision making and judgement. The purpose of this study is to assess the lay perceptions of people on psychopaths and determine how this affects the credibility of the sentencing judgement. It is firstly important for the mock jury to identify the underlying mental disorder pertaining to a particular individual who is responsible for committing the horrendous crime. There are different types of mental disorders. However, due to the lack of knowledge in psychology, these individuals are generally categorized under "mental illness". It is the responsibility of the judges, advocates and police investigators to have the knowledge of different classification of mental disorders along with the legal provisions. Additionally, they must also be aware of the treatments associated with the disorders of those who are guilty of criminal acts. This information is of high importance when it comes to the hearing of the final judgements because not all criminals commit crime under the same circumstances. Many reported crimes are with regard to serial killers, generalised mental illness and other sexual activities. But very few cases have recognised psychopathic conditions in criminals. The United States and the United

Kingdom have developed separate statutes for assessing criminals with psychopathy conditions while India is being negligent about these defensive laws towards psychopath criminals.

1. Introduction:

Crime is considered as the most evil deed of the society. Once a person commits crime, society is blinded by the idea of giving cruel punishments to criminals at any cost. Psychopaths are seen as an evil entity but little do they know what drives these psychopaths to commit the crime. Lay perception eventually leads to misconceptions on psychopaths as it is an ambiguous term. So, to what extent is it fair to treat a mentally impaired person and a normal person similarly while giving legal judgements. The cause of the crime is more important than the crime itself. While passing a legal judgement, it is crucial to take other disciplines (in this case the psychological condition) into consideration to explain the phenomenon and the circumstances under which the crime was committed. Ignorance of abnormality of a criminal can question the credibility and validity of the decision making system.

Lay perceptions are informal, self explanatory definitions assumed by individuals while referring to a particular social behaviour and is completely different from the clinical definitions. Psychopathic personalities are highly misunderstood. Mayo clinic defines psychopathy as a personality disorder, with no regard to right



or wrong.¹ Most psychopaths lack empathy, emotions and fear which inclines them towards criminal acts. Many people have developed a stereotypical view on psychopaths, hence they fail to recognise it as a mental condition which needs intervention of clinicians. A study conducted by Furnhan et.al.² provided questionnaires to two hundred and thirty two individuals out of which one hundred and forty five were women and eighty seven were men. The yielded results suggested that the general crowd had a relatively poor comprehension about psychopathy. Vignette identification was a part of the experiment, where participants easily identified the conditions such as depression and schizophrenia whereas significantly few participants identified psychopaths. It is evident that many people are not aware of psychopathy being a medical condition, rather they see it as a generic term used to describe a heartless person. This stereotypical influence is reflected on the legal judgements as they are reluctant in recognizing psychopathy as a medical condition which requires clinical intervention.

Researchers have been debating whether psychopathy is a genetically predetermined condition or if the behaviour has been developed by environmental factors. A scientist from Vanderbilt University discovered that neurons of psychopaths have been wired in a way to seek rewards at any cost.³ The basis of their

problematic behaviour including violent crimes, substance abuse and recidivism is due to a hyper-reactive dopamine reward system. They revealed that psychopath's dopamine system gets highly active when they anticipate a reward. These rewards are mental satisfaction due to exaggerated dopamine response and they cannot alter their attention from gaining these rewards. This chain of actions eventually leads to criminal behaviour.

Psychopathy has two broad dimensions: interpersonal detachment and antisocial/impulsive behaviour.⁴ Environmental factors play a major role in developing psychopathic conditions in young juveniles. Several researchers from the University of Michigan used Psychopathy Checklist- Revised and Multidimensional Personality Questionnaire to determine the effect of environmental factors on the development of psychopathy on 2604 twins of seventeen years.⁵ The results concluded that factors such as abusive family relationships, poor school environment, insecurity from peers, and post traumatic influence in their lives lead to disturbance in their dopamine reward system causing psychopathy. The study also suggested that individuals' genetic predominance were highly under the risk psychopathy.

The court should be aware of the fact that some psychopathic criminals are offenders 'but' with a diseased state of mind

¹<https://www.scienceofpeople.com/psychopath/>
Accessed on 8 October, 2019

²https://www.researchgate.net/publication/23449591_How_to_spot_a_psychopath_Lay_theories_of_psychopathy
Accessed on 3 October, 2019

³ <https://psychcentral.com/news/2018/03/17/why-do-people-become-psychopaths/12193.html>
Accessed on 12 October, 2019

⁴ <https://www.ncbi.nlm.nih.gov/pubmed/14658743>
Accessed on 12 October, 2019

⁵ <https://www.ncbi.nlm.nih.gov/pubmed/22452762>
Accessed on 12 October, 2019



which impairs their judgemental functionality.

1.1 Research Problem:

There are no defensive laws for psychopathic offenders in India. Chapter IV of IPC, under general exception, section 84 gives protection for criminals who commit crime under unsound mind (example for schizophrenia) whereas psychopathic offenders are treated like normal criminals and there are no laws in India in favour of these psychologically affected criminals.

1.2 Aim:

To examine the effect of lay perception of psychopaths on legal decision making.

1.3 Research Question:

To what extent does the effect of lay perception of psychopaths have on the credibility of legal decision making in India as compared to the United States and the United Kingdom?

1.4 Hypothesis:

Psychopath offenders associated with lay perception are more likely to be sentenced to death or given rigorous life imprisonment without any medical intervention in India, in contrast with the United States and the United Kingdom.

1.5 Scope:

This critique attempts to draw attention to the credibility of legal decision making based on their perception of psychopaths. Various argumentative points have been observed to have a contravening effect on Indian justice legal system. Labelling of psychopaths causes prejudice of judges resulting in unjust judgements

towards mentally impaired psychopaths. Benefit of section 84 is also not extended towards psychopaths and on the contrary they get intense punishment without medical intervention. This paper also includes a comparative study of legal judgments in Indian as compared to legal judgements in the United States and the United Kingdom.

1.6. Limitation:

This paper is limited to case studies where the Indian judicial system was reluctant towards psychopaths to justify the argument. These case studies are compared with international case studies where only the United States and the United Kingdom are considered while the law regulation towards psychopaths in other countries were not reviewed. This also critique lacks primary information collected through interviews, questionnaires and surveys.. Further investigation is needed to acquire information to see if there is a correlation between labelling of psychopaths and legal judgements.

1.7 Methodology:

This paper incorporates both exploratory design and descriptive design. Exploratory design is used to study an area which has not yet been interpreted or investigated by other researchers. Since not much attention is given to psychopath's criminal tendencies despite encountering multiple cases related to psychopaths, this discipline is considered as an unexplored discipline. On the other hand, Descriptive design is a research design in which characteristics of a person, community or a group is described, the research distinctly describes the characteristics of psychopaths and further lists out the reasons to justify implementation of defensive laws for



psychopath criminals. In addition, a doctrinal research method has been adopted in this research paper. Data has been collected from primary sources and secondary sources. Data from primary sources is taken directly from the original source like legal documents and data from secondary sources are taken from relevant literature review articles, credible websites and periodicals. The critique also includes a comparative study between India and other countries to justify the argument.

2. Data Analysis:

2.1 Stigmatisation Effect of labelling Psychopaths:

Criminals labelled as ‘psychopath’ are seen as more vicious than an offender without such labels. Edens et al. (2005)⁶ conducted a mock trial on mock juror’s to test their perception on psychopathy and extension of death penalty. The results surprisingly found that sixty percent of the mock jury members endorsed the death sentence as a punishment for males labelled as psychopaths. The study further investigated that layperson was more likely to support death penalty than an individual who knew the clinical aspects associated with psychopathy. Laypersons saw labelled psychopaths as an aggravating factor to the society and disregarded the fact that they need medical treatments more than death penalty as their mind set is different from that of a normal person. In the case, Kishor Jaising Sonawane V. the State of Maharashtra⁷, the appellant was sentenced to

‘suffer for imprisonment for life’ for committing murder. Despite providing the evidence of his mental illness, the court overlooked it and stated that he showed no sign of unsound mind. There was no mention of clinical treatment to be provided for the appellant instead the court used the word ‘suffer’ while passing the judgement of imprisonment for life just because he was labelled as a psychopath. The court failed to see psychopathy as a mental condition where the person’s judgemental ability is impaired. The accused was egocentric and his main motive is not to kill but to satisfy his mental state and the court completely neglected this mental state. Here again the labelling effect caused biased judgement reinforcing the fact that lay perception of psychopathy can lead to unfair judgement.

2.2 Ignorance of Section 84 for psychopaths:

The impulsive and irresistible behaviour of psychopaths are not assured with protection under section 84 in the Indian Penal Code. S. 84 Act states that “nothing is an offence which is done by a person who at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.”⁸ According to this law, the crime committed by the accused can be forgiven when they are mentally impaired. However, in the case of Sarjerao Rambhau Machale V. The State of Maharashtra⁹-Sanjerao Rambhau Machale was not given the protection under section 84. He was

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<https://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=2561&context=etd> Accessed on 12 October, 2019

⁷ <https://indiankanoon.org/doc/94155108/> Accessed on 12 October, 2019

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<https://indiacode.nic.in/handle/123456789/2263?local=en> Accessed on 8 October, 2019

⁹ <https://indiankanoon.org/doc/33731897/> Accessed on 7 October, 2019



accused of murder of his wife under section 302 which states that “whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine.”¹⁰ Sarjeroa believed that his wife was involved in an extramarital affair. Dr. Dhananjay Chavan who was a resident doctor at Sassoon hospital revealed that the accused was suffering from a psychopathic disorder known as ‘bipolar mood disorder’. The appellant showed clear symptoms of bipolar mood disorder which included- agitated, sleep-deprived, irritability and somatic anxiety. He also stated that the accused also had episodes of multiple depression from the past six years. Another witness admitted that the accused suffered from lunacy from past ten years and often when the appellant had the attack of lunacy, he would grind his teeth and cross his fingers and shout that people were beating him. To add on, Dr. Lavate reported that the appellant was diagnosed with Schizophrenia as well. Dr. Lavate further stated that at the time of committing the act, he was not of sound mind and his impaired orientation led to his poor judgement of right or wrong. However, because the accused has been tagged as a psychopath, the misconceptions that they intentionally commit crime failed to take into consideration Sarjeroa’s schizophrenic condition which led to impaired judgement. Also due to his psychopathic condition, he was anxious that his wife would leave him for another man and out of his impulsive nature he murdered his wife. Despite giving the evidence of his mental state, the Additional Public Prosecutor (APP) denied to extend the benefit of section 84 of the Indian Penal Code because according to APP the way in which

the appellant murdered his wife seemed like he was in a normal state of mind. The way in which a person murders cannot define his intention and it is a clear example where the legal judgement was unjust and biased towards the accused or more likely towards psychopaths.

Even if the accused was in a sound state of mind, his judgemental capacity was abnormal which is closely related to an unsound mind. The India legal system does not have any statutes to define psychopathic crime laws and it also refuses to extend protection under section 84. Therefore, it is evident from this incidence that lay perception of psychopaths do have a negative effect on legal judgments and the protection under section 84 will not be extended to a person labelled as psychopath.

Control Study- In the case *Amitabh Das V. The State of Assam*¹¹, Amitabh was accused of murdering his mother but got the benefit of section 84 was given to him as he was diagnosed with schizophrenia. The accused was set to liberty and declared not guilty of the offence. He was emancipated until he was found guilty of another crime.

From the above comparative study, it is clearly evident that the Indian legal system is negligent towards psychopaths alone.

2.3 Indian Judicial Response towards Psychopaths:

Many cases are reported each year with various mentally ill criminals, serial killers, violent crimes and sexual criminals. In the case *Mithu vs. State of Punjab*, the

¹⁰ <https://indiankanoon.org/doc/1560742/> Accessed on 7 October, 2019

¹¹ <https://indiankanoon.org/doc/175532416/> 13 October, 2019



Supreme Court abolished section 303, which made death penalty mandatory for crime offenders who commit murder during their term in prison.¹² India denied to align with United Nations General Assembly for the use of death penalty.¹³ Despite the abolishment of this law, Amnesty International has published a report disclosing that there is an increase of eighty one percent on death penalty in india.¹⁴ The report revealed that hundred and thirty six death sentences were recorded in 2016 and seventy five death sentence cases in 2015. According to their report, not a single death execution was recorded officialy but more than four hundred death penalty of prisoners were given to those who committed murder during their prisonment of life sentence. In the case, *The Registrar General vs Doddahanuma*,¹⁵ the accused was sentenced to death by hanging his neck until he died. Dandupalya Krishna, the accused killed many victims with a crowbar. He also stated that he liked to hear the last sounds of life draining away and he used to get excited while hearing the gurgling sound after slitting their throat. He had no sense of remorse in his statement which is a clear sign of a person being a psychopath. However the court did not even recognise his mental condition and sentenced him to death.

2.4 Other Countries V/S Indian Judgements:

The scope of defence is excluded for psychopathic criminals in various legal systems. The United States and United Kingdom development a separate statue to recognise psychopathic criminals to prevent the false judgement. In the case of *Surendra Koli vs State Of U.P. Ors* on 15 February, 2011¹⁶, popularly known as the 'Nithari Case' where Surendra Koli was accused of killing and eating flesh of children at that time. The accused showed clear traits of psychopathy however due the jury failed to identify his abnormal behaviour as a psychological disorder. The jury considered Koli as a psychopathic patient in the beginning, but this significant fact became a vague impression at the time of judgement. He was sentenced to death without even giving him a chance to prove his mental illness or the motive behind his act. There is no law in India to treat the psychopathic criminals who are victims of their own minds. This area requires in-depth study of such criminals and their mental state to differentiate between the crime conducted by an impaired mind and crime conducted by a normal person. A popular chief justice in New Jersey stated that "the postulate is that some wrongdoers are sick while others are bad."¹⁷ Surendra Koli was called 'psycho killer', 'monster' and 'animal' without correct knowledge regarding psychopathy. Lay perceptions of psychopaths in the crowd fail to consider his understanding of right and wrong and the same applies to legal systems

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https://en.wikipedia.org/wiki/Capital_punishment_in_India Accessed on 12 October, 2019

¹³<https://thewire.in/external-affairs/india-votes-against-unga-draft-resolution-on-use-of-death-penalty> Accessed on 13 October, 2019

¹⁴ https://www.huffingtonpost.in/2017/04/11/india-81-increase-in-death-penalty-2016_a_22035043/ Accessed on 12 October, 2019

¹⁵ <https://indiankanoon.org/doc/11515780/> Accessed on 12 October, 2019

¹⁶ <https://indiankanoon.org/doc/659859/> Accessed on 8 October, 2019

¹⁷ <https://law.justia.com/cases/new-jersey/supreme-court/1963/40-n-j-191-0.html> Accessed on 8 October, 2019



who fail to understand the accused point of view.

On the other hand, most legal systems require the accused who is mentally impaired to prove that they were functionally impaired as a result of mental disorder at the time of offence. Professor Robert Hare, a criminal psychologist has created a psychological assessment tool to determine if someone is psychopathic, this tool is known as PCL-R¹⁸. Hare observed and studied various criminal psychopaths and non-criminal psychopaths. He stated that he was surprised at the fact that some people are emotionally resistant to an extent where they objectify other people and kill them without a concern. He compares a psychopath with a colour blind person, where red colour is attributed to other human's emotions. It provides an insight into a psychopath's inability to understand others emotions. A person who scores above thirty out of forty in the PCL-R test, are considered for the defence in their criminal acts as they are considered psychopathic. David Eagleman, a neuroscientist opined that the legal system is falsely demonstrated in terms of treating all people standing in front of the judge equally¹⁹. He suggested that rather than applying death penalty to psychopath criminals, the law suit should consider the likelihood of the accused to reoffend and accordingly pass judgements. He also added that rehabilitation should be provided for those who can improve their mental state and long-term imprisonment if they pose a threat.

In 2011, Missouri revised its statutes in defence of sexual psychopaths under Section 632.475 where in the accused can be released any time after commitment, when a written application to show promising facts that the sexual psychopath has improved during his commitment period to an extent where he no longer poses any sort of danger to the society.²⁰ Commitment is an order from the court, where a mentally ill person should be taken in custody of a hospital, prison, mental health facility or similar institution.²¹ For instance, in the State V. James's case, Leory Allison James who was an appellant was accused of being a criminal sexual psychopath.²² The Supreme Court of Missouri passed its judgement stating that the appellant may be committed to State Hospital No.1 at Fulton. Before passing judgement, two psychiatrists from Mid-Missouri Mental health inspected Mr. James. Dr. Dana L. Solemn testified that the appellant was diagnosed with psychopathy.

In the United Kingdom as well, Scottish commission law stated that psychopaths have difficulty in complying with the laws which are not shared with an ordinary man due to his psychological make-up.²³ Scottish commission law believes that 'psychopath criminals find it difficult but not impossible' to follow the laws as they mentally suffer from partial violating behaviour. These criminals have been provided with separate laws to control their

¹⁸ <https://www.telegraph.co.uk/books/non-fiction/spot-psychopath/> Accessed on October, 2019

¹⁹ <https://www.telegraph.co.uk/books/non-fiction/spot-psychopath/> Accessed on 8 October, 2019

²⁰ <https://law.justia.com/codes/missouri/2011/titlexl/cha-pter632/section632475/> Accessed on 8 October, 2019

²¹ <https://www.upcounsel.com/legal-def-commit-ment> Accessed on 13, October, 2019

²² <https://law.justia.com/cases/missouri/supreme-court/1976/59173-0.html> Accessed on 8 October, 2019

²³ Para 2.60 <https://www.scotlawcom.gov.uk/files/3612/7989/6586/rep195.pdf> Accessed on 13, October, 2019



acts and further prevent them by clinical intervention. There is no confusion in terminologies associated with psychological conditions like psychopathy, schizophrenia, psychosis, sociopaths, rapists, sexual offenders and serial killers. The United States and the United Kingdom have clear demarcations made to differentiate these conditions and provide suitable treatments, as compared to India.

2.5 Draft Law:

Firstly, the reasons to have defensive laws for psychopaths are as follows:

- I. They are criminally responsible but not morally responsible for their criminal behaviours due to an exaggerated dopamine reward system resulting in impulsive/irresistible behaviour leading to criminal activities.
- II. They lack moral reasoning, their judgemental capacity varies from a normal person.
- III. They lack the capacity to sympathise and comprehend other's emotions.
- IV. Other emotional abnormalities include lack of remorse or guilt and fear
- V. Their personality features include extremely self centered, constant need for stimulation, impulsive, irresistible, irresponsible, delinquency at a young age, and criminal versatility²⁴

Secondly, a diagnostic tool like PCL-R should be used to evaluate the characteristics of a person to diagnose him as a psychopath. Based on these criteria, the researcher has proposed a law draft which may be included in chapter IV of the IPC under general exception:

Law proposed-

Act of a person of impaired judgement due to impulsive and irresistible nature of. Crime committed by a person with a impaired judgement due to impulsive and irresistible nature should be exempted from rigorous punishment, and must be taken under the custody of Medical Subordinate until good faith is established that the person will not commit crime further.

Provisos

- 1) This shall not extent to those who intentionally commit murder without a underlying personality disorder
- 2) This shall not extent to those who display partial or minimal or starting mptoms of personality disorder

3. Data Interpretation/Findings:

As per the discussion, the hypothesis proposed has been proved right. Indian Judiciary decision is not reliable enough with regard to judgement associated with psychopaths. On the other hand, the United States and the United Kingdom have developed special statues for psychopaths and different categories of psychopaths. For instance, the United States has passed a law separately for sexual psychopaths. So, based on the rating of psychopathic tendencies different laws are applicable to different types of psychopathy in order to prevent unbiased judgement. Whereas, Indian legal system is unaware of the clinical definition of psychopathy and is neglecting the importance of acknowledging the fact that psychopaths need rehabilitation during imprisonment rather than death penalty or rigours life imprisonment. Therefore, Indian judicial

²⁴<https://www.healthyplace.com/personality-disorders/psychopath/psychopathy-definition->

symptoms-signs-and-causes Accessed on 18 October, 2019



system has not yet identified this area pertaining to psychopaths.

4. Suggestion:

The United States and United Kingdom utilise a diagnostic tool known as Psychopathy Checklist- Revised by Dr. Robert Hare to classify and rate them based on their psychopathic tendencies. Firstly, India should also develop a checklist to diagnose a person with psychopathic tendencies. The checklist should include interdisciplinary factors that build up or moderate the cognition of psychopaths and must be presented to the courtroom in defence of the accused. Additionally, it is suggested for the India legal system to take steps to educate the jury and the society about psychopathy being a medical condition and not just a term used to describe an insane person. The government should consider passing a law at community level whereby the schools and colleges appoint a psychologist to recognise the sign of psychopathy at an early age and give suitable treatment, as this condition is mostly development during the juvenile period. Once the condition is identified, defensive laws must be implemented to make it mandatory for psychopaths to get medical treatment from rehabilitation centres or hospitals to improve their cognitive behaviour because every offender deserves a chance. If a person's psychopathic tendency is very high, then they must get treatment in the jail itself but medical intervention is necessary either way. This can eventually cut down crime rates associated with psychopaths and ethically law will be right on its part.

5. Conclusion:

It is common for the legal system to ignore the condition 'psychopathy' without knowing the relative clinical definition of the personality disorder. It is important for the legal system to learn the underlying condition of the criminal to understand his motives and drives that lead to criminal acts. Legal system should appoint a special team with proper training in criminal psychology to study such cases. Indian government should develop statutes to recognise such special personality disorders like psychopathy to make legal decision making free of personal bias.

Legal judgements in some cases are not credible enough due to lack of recognition of psychopathic disorders in various cases in India compared to other legal systems. Many infamous cases like Raman Raghav, Auto shankar, Charles Shobraj, etc have shown psychopathic tendencies but their psychological condition was not identified, making the legal judgement unreliable. In the above mentioned Indian cases, Kishor Jaising Sonawane, Sarjerao Rambhau Machale, Dandupalya Krishna and Surendra Koli were sentenced to death or given life imprisonment while their mental state was neglected. On the contrary, the state of Missouri allowed Leory Allison James to get treatment from a psychiatric hospital. Scottishish government also has realised the importance for the need of separate statutes to be created to regulate crimes committed by psychopaths. This ambiguity has to be resolved by the Judicial system and legislature by passing relevant laws for different mental illnesses in order to reach the public at large to clear issues on lay perception.

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