

## Forensic Psychology in India – where are we and where are we going

Havovi Hyderabadwalla

Consultant Psychologist, Mind Mandala, Mumbai

**Corresponding author:** Havovi Hyderabadwalla

Email – havovih@gmail.com

Before we trace the legal footprints of Forensic Psychology in India, it is imperative to understand the justice system and what part of the puzzle of the judicial system does forensic psychology fit. When a crime has been committed the point of contact is the police who eventually collect evidence from the scene of the crime and deliver it to the Forensic science laboratories. Once the laboratories complete their scientific assessment it is sent to the court of law to help in deducing who, when, where, what, why and how. Forensic Psychology tends to play a very important role especially rendering answers to – why? – The motive.

### History of forensic psychology in India:

One can trace the roots of Forensic Psychology back to 1968 when the first lie detection division was set up at the Central Forensic Science Laboratory (CFSL) of Central Bureau of Investigation (CBI). Initially, there was an absence of formal training centers for professionals to be formally trained in lie detection. References on how to run lie detection tests were made from books and papers from the western culture (Reid and Inbau, 1966). Convincing the Indian courts about the efficient jurisprudence of Forensic Psychology was based on trial and error of scientific tools used.

The first court-authorized narco-analysis was conducted in 1989 by Dr. S.L. Vaya. However, this was against the consent of the person in question. She went onto assert that consent and court sanction were equally important keeping the law and fundamental rights in mind. This test was also conducted mainly in prisons out of a kit, unlike the facilities that professionals have today. Presently, narco analysis is conducted in a room which is a replica of an operation theatre with the help and guidance of a team of professionals which include a Doctor, a nurse, and mental health practitioner.

In 2010 the supreme court of India ruled that tests such as Narco analysis, Lie detection and Brain Electrical Oscillation Signature can be conducted with informed consent. Information discovered with the help of these instruments can be admitted as evidence in the court of law.

A grey field is observed on how the courts find scientific tools used by forensic Psychology laboratories are invasive of an individual's fundamental rights and on the other, they use the information extracted during the procedures to help them with crime scene analysis (Sen, 2015).

### India's valuable contribution with respect to crime detection

A contribution made by Prof. C.R. Mukundan, Professor at NIMHANS in 2003, a professor of psychology who had a keen interest in neuroscience discovered the technique of Brain Electrical Oscillation Signature (BEOS). This technique taps into the experiential memory stored of a suspect and not conceptual memory. It assists in deducing whether a suspect was a witness to the crime or part of the crime based on scientific facts.

As generations' progress and new advances are made in the world, criminals have become more stealth. Due to the advancement in technology, the modus operandi of the average criminal has become cleverer with his interaction at the crime scene. Currently, lesser and lesser physical evidence is found at the crime scene. This leaves the criminal Justice system to resort to expert advice of forensic psychologists to help them assimilate a profile to track the culprit down. As courts now have to rely more on oral or

documentary evidence, Information collected with the help of BEOS from suspects has become an important tool in crime investigation.

This technique, however, has been targeted with a lot of criticism. As BEOS is based on understanding brain wave readings of EEG's prove to observe a lot of 'noise' during the procedure, which can deduce the accuracy of the tool. Further, opponents of the method believe "experiential" and conceptual knowledge do not fall into categories of memory. This methodology though accepted more openly in the courtroom does require a lot more peer reviewing and defend its infallible nature.

### **Role of Forensic Psychologists in the Courtroom**

In India, as we know, the police collect the evidence and transport it to the Forensic Laboratory of the Jurisdiction where experts scientifically examine it. The role of a forensic psychologist would ideally begin when they are called upon by the police, lawyers or judges to interview and assess criminals. The formal interview and assessment are then used as corroborative evidence in the court of law to help execute justice effectively. A Forensic Psychologist can also continue work towards rehabilitation of a criminal or a victim under court mandate in a medico-legal ward.

According to the Indian Evidence Act 1872, Section 45 states: " Opinions of experts.—When the Court has to form an opinion upon a point of foreign law or of science or art, or as to identity of handwriting 35 [or finger impressions], the opinions upon that point of persons specially skilled in such foreign law, science or art, 36 [or in questions as to identity of handwriting] 35 [or finger impressions] are relevant facts. Such persons are called experts."

As per the above clause, a forensic psychologist assists the judicial system to execute the law in a just manner by presenting facts. These facts are in the form of reports of in-depth interviews and thorough assessments of the suspects in question. It must be taken into account that a forensic psychologist acts as an expert who imparts his knowledge and expertise to the courtroom, which acts as corroborative evidence. At no point, the expert has the final verdict in dispensing justice, which shall only be executed by the judge.

A crucial role played by a forensic psychologist or forensic psychiatrist would be to shed light on the "*mens rea*" of suspects. "*Mens rea*" addresses the state of mind of the said accused that generally pleads on 'not guilty' in the witness stand during a trial. Those who plead guilty may claim to have committed a crime under the influence of a substance or be unaware that they have engaged in the crime. This allows the defense to plead lesser punishment or procrastinate the final verdict of the judge. In such cases, experts step in and assimilate a thorough forensic interview and assessment to judge how true the individual's statement is. This helps the judge execute a verdict, which is fair and in light of the safety of the society and the individual.

The Indian Evidence Act 1872, section 45, allows forensic psychologists and psychiatrists to lend their expertise to solving in criminal investigations. This gives forensic psychologists an opportunity to make forensic psychological methods dynamic, unique and versatile befitting catering to the needs of cases with the help of feedback procured from the judicial system i.e. police, lawyers, prosecutors, judges and other forensic professionals they assist.

### **Rehabilitation in light of offenders**

India's prison system requires a considerable make over. Unlike Canadian and United Kingdom, Indian prisons are not conducive to rehabilitation. Unfortunately this gives a rise to recidivism of crime rate in the country. Statistics recorded by the Government of India till 2014, reflect an overall rate of recidivism of the country is 7.8%. However, statistics of individual states reflects more concern. The statistics of recidivism in Tripura 54%, Telangana 10.1% and Andhra Pradesh 7.2%. A significant contributor towards these statistics was from the state of Madhya Pradesh. Out of 35,23,577 arrested, 32,70,079 were new offenders. 1,95,183 held a conviction of one imprisonment record, 44,171 were imprisoned twice and 14,144 had been imprisoned three times or more.

Prisons in India have a hosting capacity for over 366,000 offenders. However, there is more than 110% overcrowding, and an appropriate offender-psychologist ratio would be required in order to understand the perpetrators' mind sets and guide them through their issues. While the idea that prison systems are

supposed to be rehabilitative in nature is often stressed upon, much needs to be done in order for that to be put into practice. Indian prisons boast of a capacity to hold 366,000 offenders. However, it is observed that there is a 110% overcrowding. There is lack of rehabilitative psychologists who would be able to deliver their skill set into guiding prisoners settling into jails, or life imprisonment. Inmates tend to face an abundance of mental health issues e.g.: Post Traumatic Stress Disorder, personality disorders, substance withdrawal, schizophrenia etc. attention needs to be paid and prisoners need to be provided with aid to manage distress. With correct intervention plans for offenders who deal with mental illness, the rate of psychiatric recidivism decreases. No fixed interventions exist that work on all offenders. Appropriate assessment is needed in order to effectively deal with offender issues.

Forensic psychologists can carry out individual and group therapeutic interventions as India has in mental health facilities in India which have been proven effective, similar assessments and road maps can be made to facilitate inmates to be released back into society in a healthy manner.

### Conclusion

One can observe that the weight of the legal footprints of forensic psychology is not as heavy we would expect it to be. Currently, it is still used as corroborative evidence in Indian Courts.

### Recommendations

An effective standard operating procedure has to be enforced within the system where forensic psychology comes to play. Standardized Guidelines need to be formed for the smooth functioning of the system where it clearly suggests where forensic psychology needs to be involved. Augmentation and training of Forensic psychology will help accelerate the efficiency of students and professionals. Right man for the right job – the technical skill set of a forensic psychologist must be taken into account and should take precedence over another professional's skill set (e.g. clinicians or counselors). Accountability should be instituted into the system where funds, machines, and manpower is assessed as well e.g. how many trained forensic psychologists exist in India? Where can they be placed? According to the Bureau of Police Research and Development (BPRD, 2017), there are 15,579 registered police stations. This opens a gate to create 15,579 jobs in the market for a specialized skill set like forensic psychology. Prisons around the country need to employ forensic mental health professionals to sustain the path of rehabilitation which will eventually show a significant decrease in statistics of recidivism. Keeping in mind that all crime is man-made and executed, each Forensic Laboratory must have a Forensic Psychologist or a team to benefit from their skill set. Time is of the essence in every case. If the current investigating system continues, special training would need to be imparted to the police who collect evidence including initial interviews of victims and suspects without effective training. This compromises evidence as their eye for detail may be amiss. A dire need is to create public awareness of the system and under what circumstances they can seek help of a forensic psychologist. This awareness can be done at the educational level to make the masses aware of what comprises forensic mental health. The need of the hour is a functional ecosystem within the justice field which focuses on harmony of professionals working together with a collaborative effort more than a competitive one.

### REFERENCES

1. Jaiswal BS. Data on Police Organizations (p.22, Databook2017). New Delhi. Deep Graphics ; 2017
2. Chandran R, Koshy J. Brain Mapping: debate over scientific validity continues. Retrieved from <http://www.livemint.com/Politics/JNbZwqCOiDsXa21mXtUORO/Brain-mapping-debate-over-scientific-validity-continues.html> ; 2010.
3. Government of India. Constitution of India, Article 20(3),1949.
4. Home. (n.d.). Retrieved February 20, 2018, from <http://www.axxonet.com/passion/11-forensics>.
5. Government of India. Ministry of statistics and Programme Implementation. (2015, December 31). Retrieved from <http://www.mospi.gov.in/statistical-year-book-india/2016/206>.
6. India. (1872). Section 45, Indian Evidence Act, Gazette of India, Government printer (laws).
7. India, Ministry of Home Affairs, Department of states, National Crime Records Bureau. (2015, September 7). Recidivism Amongst Persons Arrested Under IPC Crimes. Retrieved from <https://data.gov.in/resources/recidivism-amongst-persons-arrested-under-ipc-crimes-during-2013>.

8. Karandikar, S. (2017, June 18). The case of India's missing Forensic Psychologists. Retrieved from <http://www.livemint.com/Sundayapp/t18ge5WBhG0HXxCW9mKzNM/The-case-of-Indias-missing-forensic-psychologists.html>
9. Reid JE, Inbau FE. Truth and Deception: The polygraph ("lie detector) technique. Williams and Witkins, Baltimore ; 1966.
10. Sen A. Aarushi. Gurgaon, Haryana. Penguin books publication ; 2015.

\*\*\*\*\*

Acknowledgements – Nil;

Conflict of Interest – Nil;

Funding – Nil.