

AT THE CUSP OF LAW & PSYCHOLOGY: AN ANALYSIS OF FORENSIC PSYCHIATRY AND ITS INTERSECTION WITH LEGISLATURE AND LEGAL PROCEEDINGS

by

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ABSTRACT

The study of law is highly dynamic and intersectional. One such intersection is that of Psychology and Law. Both these fields deal with human behaviour. This paper attempts to highlight the interplay between these two fields by discussing various legislations like The Family Courts Act 1984, Narcotic Drugs and Psychotropic Substances Act 1985, Juvenile Justice Act 1986, Consumer Protection Act 1986, Persons with Disability Act 1995, The Maintenance and Welfare of Senior Citizens Act 2007 and analyses the way forensic psychiatry has been applied to these legislation. The paper also evaluates the use of forensic psychiatry in imperative judicial processes such as witness testimony and legal divorce counselling.

Keywords: Forensic Psychiatry; India; Law; Mental Health; Juvenile Justice Act, 1986; *Mens Rea*; Narcotic Drugs and Psychotropic Substances Act, 1985; Persons with Disabilities Act, 1995.

INTRODUCTION

Forensic psychiatry can be understood as that part of psychiatry which deals with patients and problems at the intersection of the legal and psychiatric systems.¹ Etymologically, the word ‘forensic’ is derived from the Latin word ‘*forensis*’ that means public. This Latin term is related to the English word “forum” which refers to a market place where Roman courts originally used to conduct sessions. Therefore, the term forensic can be best defined as “related to court procedures”.² The term subsists interactions of most of the sciences with the legal environment.

Therefore, the interactions of psychiatric and psychological sciences with the legal proceedings can be termed as Forensic Psychology & Forensic Psychiatry respectively. While closely related, both these sciences have developed in their own regard and one might consider forensic psychology as a subset of forensic psychiatry. Forensic psychology is the application of psychology on matters of litigation and jurisprudence. The interface between psychology and the law covers expert opinions concerning question of child custody, competency, criminal responsibility, personal injury or handicap suitability to work in law enforcement and candidacy for probation or parole. It also includes expert opinions on such matters as the reliability of eyewitness testimony.³

Another perspective is that forensic psychiatry is an attempt at making mental health inclusive in the juristic sense and providing for means to include sensitivity awareness and the requisite funds and professionals to the legal system who can deal with the myriad mental health requirements in the legal proceedings.

The definition developed over ages which aggregates forensic psychiatry and psychology, and it endorsed by the American Academy of Psychiatry, can be termed as an apt aggregation of these sciences. The definition establishes that “Forensic Psychiatry is a subspecialty of psychiatry in which scientific and clinical expertise is applied to legal issues in legal contexts embracing civil, criminal, and correctional or legislative matters; forensic psychiatry should be

¹ John Gunn, WHAT IS FORENSIC PSYCHIATRY, 14 Crim. Behav. & Mental Health S1 (2004).

² Dr. Justice AR. Lakshmanan, “NEW ADVANCES IN THE FIELD OF FORENSIC SCIENCE AND MEDICAL JURISPRUDENCE”, (2005) 1 LW (JS) 85.

³ *Ibid.*

practiced in accordance with guidelines and ethical principles enunciated by the profession of psychiatry.⁴

Most countries have different laws, judicial systems and approaches in legal proceedings, therefore, their outlook towards forensic psychiatry and the corresponding legislations is varied. Therefore, Forensic Psychiatry is an upcoming field of law which when analysed will highlight that its use in a developing nation like India can lead to several reforms which are in tandem with the progressing world. Research and understanding of the forensic science is imperative in order to strengthen the judicial system of India as well as tackle a rising concern that is mental wellbeing and healthcare.

DEVELOPMENT OF FORENSIC PSYCHIATRY IN INDIA

Forensic psychiatry is an emerging field in India is the prevalent opinion of professionals who deal with criminal proceedings country. Much like all forensic sciences, forensic psychiatry plays an important part in decoding a crime as well providing essential advice and direction during trial process. Therefore, forensic psychiatrists make up an essential part of criminal investigation systems and prison systems in various countries.⁵ Their profiles are diverse. Some of the main jobs of a forensic Psychiatrist includes taking up roles of criminal profilers, expert witnesses in courts, suspect interrogators, prison rehabilitation officers and victim counsellors.⁶

Therefore, it is imperative to understand and analyse wherein in the justice system and what part of the judicial system does forensic psychology & psychiatry fit in. It must be understood that when a crime is committed, the point of contact is the police who subsequently collect evidence from the scene of the crime and deliver it to the forensic science laboratories for inspection and analysis. Once the laboratories complete their scientific assessment these evidences are then presented in the court of law to help in deducting the occurrence of crime. Forensic psychology tends to play a very important role in rendering answers to several aspects such as motive, sanity of accused and quality of expert testimonies.

⁴ Prentice SE. A History Of Subspecialization In Forensic Psychiatry. Bull Am Acad Psychiatry Law 1995;23:195-20

⁵ Konrad, Norbert & Völm, Birgit. (2010). ETHICAL ISSUES IN FORENSIC AND PRISON PSYCHIATRY. 10.1007/978-90-481-8721-8_22.

⁶ B C Malathesh & Soumitra Das, BEING A FORENSIC PSYCHIATRIST IN INDIA: RESPONSIBILITIES, DIFFICULTIES, AND CRITICALITIES, INDIAN JOURNAL OF PSYCHOLOGICAL MEDICINE (2017), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5733419/> (last visited Mar 25, 2020).

PROMINENT LEGISLATION IN THE FIELD OF FORENSIC PSYCHIATRY IN INDIA

Mental health is an extremely taboo subject in the Indian society and is thus not dwelled upon in the Indian society. As a consequence, an illness of the mind is gravely looked down upon and a person having a disturbed mental health is sometimes even ostracised by the society. As a principle, it is imperative to protect persons with mental illness in general and not just those in the criminal legal systems, and provide everyone with the required health care facilities. The legislature therefore warrants the formulation of effective policies to ensure that this aspect is adequately provided for.

Although the National Mental Health Programme has been in existence in India since the 1980s there has been a consistent lack in proactive measures under this programme. Furthermore, a number of reports from the National Human Rights Commission shed light on the severe deficiencies that were present in the institutional care of persons with mental illness in the past.⁷ The various infrastructural facilities and the living conditions must also improve and the number of voluntary admissions must see a raise in order to successfully combat mental health issues. Therefore, the primary goal is to improve the infrastructure and legislations with regard to mental health care. Furthermore, a deeper analysis also reveals that human resources in the field must also be developed and trained at the earliest.

The enactment of the Mental Healthcare Act 2017 can be considered a positive change in India with respect to mental health. However, the current scenario is a work in progress which requires even stronger legislative formation, effective implementation as well as generation awareness.

The various Indian Acts regarding Mental Healthcare are enlisted as follows:

- (i).** Mental Health Act, 1987
- (ii).** Mental Health Care Act, 2017
- (iii).** Persons with Disability Act, 1996 (with corresponding Amendment Act of 1988)
- (iv).** Juvenile Justice Act (Care And Protection Of Children) Act, 2000 as well as corresponding Amendment Act of 2006

⁷ National Human Rights Commission. Care and Treatment in Mental Health Institutions. New Delhi: Dolphin Printo-Graphics; 2012

Special Legislation relating to Mental Healthcare provisions:

- (i). Narcotic Drugs and Psychotropic Substances Act (NDPSA), 1985 (with corresponding Amendment Act of 1988)
- (ii). Domestic Violence Act 2005.
- (iii). Persons with Disability Act, 1995
- (iv). The Protection of Human Rights Act, 1993
- (v). Protection of Children from Sexual Offences Act, 2012

ANALYSIS OF LEGISLATION IN THE FIELD OF FORENSIC PSYCHIATRY

A. MENTAL HEALTH CARE ACT, 1987

Since 1987, the Mental Health Act governs mental healthcare in India. When compared to the Indian Lunacy Act of 1912, there are several important and positive changes Mental Healthcare provisions. Some of the best changes can be summarised as:

1. A more humane approach towards the issues of mentally ill individuals and a change in terminology of addressing such individuals.
2. A certain emphasis is also placed on a better management regime for mental health assets and preservation of human rights
3. There is a provision for establishment of central and state mental health officials.
4. The admission and discharge processes have been streamlined and liberalized
5. A specific provision for allowing mentally ill individuals who are unwilling to consent to admission to be admitted under the category of "admission under unique conditions" wherein consent is given by their parents or even friends or employers.

However, there are several criticisms levelled against this act which essentially call for a revamped legislation. The prominent criticisms are:

1. The does not provide for reflection and change in the government's policies on Mental health over the passage of time.
2. The Act completely disregards to the World Health Organization Guidelines on mnetal Health
3. Increased weightage is given to legal considerations in comparison to medical ones.
4. Community psychiatry and family psychiatry have not been emphasised upon as in imperative tool for welfare of mentally ill individuals.

5. An individual admitted to a hospital for a mental illness is immediately termed as mad or insane. There is a requirement of more education and awareness as part of Act to ensure that such misconceptions and the general taboo of mental health is eradicated.

B. MENTAL HEALTH CARE ACT, 2017

This act is the latest iteration in the legislature's endeavour to provide for Mental Healthcare. The Mental Healthcare Act, 2017 aims to provide mental healthcare services for individuals with mental illness. It ensures that these persons have a right to live life with dignity by not being discriminated against or harassed. There are several positive and constructive aspects to the Act, however, it does have its shortcomings and cannot be considered fool proof in the Indian scenario.⁸ Some of these provisions are elaborated as under:

- A. This act states that the right to live life with dignity and no discrimination on basis of sex, religion, culture, and caste and thus every person shall have a right to confidentiality in respect of his/her illness and treatment.
- B. As per new provisions, Electric Curative Therapy (ECT) must not to be performed without anaesthesia, and further ECT cannot be performed on minor.
- C. Sterilization should not be performed in such patients neither they will be put into solitary confinement nor isolation.
- D. The act also recognizes the following acts:
 - Right of community living.
 - Right to live with dignity.
 - Right of protection from cruel, inhuman, or degrading treatment.
 - Right of treatment of equal to persons with physical illness.
 - Right to relevant information concerning treatment & rights and recourses.
 - Right to confidentiality.
 - Right to access of basic medical records.
 - Right to personal contacts and communication.
 - Right to legal aid and recourse against deficiencies in provision of care, treatment, and services.

⁸ Abhisek Mishra & Abhiruchi Galhotra, MENTAL HEALTHCARE ACT 2017: NEED TO WAIT AND WATCH, INTERNATIONAL JOURNAL OF APPLIED & BASIC MEDICAL RESEARCH (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5932926/> (last visited Mar 25, 2020).

It must be noted that in developing countries like India, persons with mental illness and their situations are aggravated by socioeconomic and cultural factors, such as lack of access to healthcare, superstition, lack of awareness, stigma, and discrimination. The Act does not direct any provisions to address these factors. Furthermore, the Mental Healthcare Act does not offer much on prevention and early intervention.⁹

C. PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

Child sexual abuse has become a highly prevalent problem in India. A study by the government of India conducted on 17,220 children showed that every second child has been sexually assaulted.¹⁰ To combat these increasing incidences of child sexual abuses, a separate law, that is POCSO Act, was formulated. This act is gender neutral, providing protection to children of both sexes.

As is evident, sexual assault of child inflicts tremendous psychological trauma on the psyches of these young children. Thus, psychiatrists have integral part to play in the evaluation and management of victims of sexual abuse. However, this has not been clearly addressed by the act. In clinical practice, many of the times, the parents of the child (victim) insist the treating doctor not to report it fearing stigma and other social reasons. Further, there are no clear guidelines on how to address and function in these situations. These are the issues that need to be addressed in POCSO Act.¹¹

D. OTHER PROMINENT LEGISLATIONS

1. ***Juvenile Justice (Child Care And Protection) Act, 2000:*** Other prominent Acts such as the Juvenile Justice (Child Care And Protection) Act, 2000 protects the freedom of children in conflict with law who may be mentally ill, disabled or deviant.
2. ***The Disability (Equal Opportunities, Rights Protection and Full Participation) Act, 1995:*** There is another distinct Act called The Disability (Equal Opportunities, Rights Protection and Full Participation) Act, 1995 which creates possibilities and concessions available for the mentally disabled alongside physically disabled people.

⁹ Center State Government Spends 1.3% of GDP on Health Care in 2015-2016. Times of India. 2016. Aug 2, (Last visited on Mar 25, 2020). Available from: <http://www.timesofindiaindiatimes.com/india/Centre-state-governments-spent-1-3-of-GDP-on-healthcare-in-2015-16/articleshow/53509406.cms>.

¹⁰ Sydney Moirangthem, Naveen C Kumar & Suresh Bada Math, CHILD SEXUAL ABUSE: ISSUES & CONCERNS THE INDIAN JOURNAL OF MEDICAL RESEARCH (2015), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4557243/> (last visited Mar 25, 2020).

¹¹ Gupta, Gazal, AN ANALYSIS OF PENAL PROVISIONS UNDER POCSO ACT 2012: A FICTIONAL REALITY (December 11, 2019). (Last visited on Mar 25, 2020). Available at SSRN: <https://ssrn.com/abstract=3502037>

3. ***Narcotic Drugs and Psychotropic Substances (NDPSA), 1985:*** This Act is another significant landmark legislation considering that drug dependence is a common cause for a disruption in mental wellbeing. In accordance with international conventions, the act deals with control and regulation of Narcotic Drugs and Psychotropic Substances and the establishment of special courts for the enactment and rigorous imprisonment of offenders. Furthermore, the court can release certain offenders on probation for undergoing medical treatment and to furnish a medical report within a year.¹² Immunity from prosecution is also given to addicts volunteering for treatment once in a lifetime.¹³ Lastly, the government is expected to establish centres for their identification, treatment, education, after care and rehabilitation.¹⁴

ROLE OF FORENSIC PSYCHIATRY IN THE LEGAL PROCEDURE

FORENSIC PSYCHIATRY IN CIVIL COURTS

In general, the modern practice of psychiatry in the courts can be classified into civil and criminal. The use of forensic psychiatry in civil courts still reverts back to the old conformist prototype wherein, given a certain amount of data in the form of a hypothetical question, the question is to decide if a testator is able to make a valid will, or who testifies whether a particular person having an estate is able to care properly for it or himself.¹⁵

Further, one can include in the civil courts, the probate aspect which refers to placement of children and their proper care and upbringing. It is observed that the functions of the court requiring expert opinion are greater than they have ever been. Further, one can hardly estimate the number of tragedies that have occurred in administering of orphans' estates and in the arrangement for their care when expert opinion and analysis via forensic psychiatry was unavailable.¹⁶

Civil Laws relating to forensic psychiatry and its implementation with respect to other substantive and procedural legislatures can be surmised as follows:

¹² Section 39, Narcotic Drugs and Psychotropic Substances Act, 1985

¹³ Section 64A, Narcotic Drugs and Psychotropic Substances Act, 1985

¹⁴ Ravindra M Kamath, PSYCHIATRY AND LAW: PAST, PRESENT AND FUTURE MENS SANA MONOGRAPHS (2015), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4381305/> (last visited Mar 25, 2020).

¹⁵ Lowell S. Selling, FORENSIC PSYCHIATRY, 39 J. Crim. L. & Criminology 606 (1948-1949).

¹⁶ Pratima Murthy et al., MENTAL HEALTH AND THE LAW: AN OVERVIEW AND NEED TO DEVELOP AND STRENGTHEN THE DISCIPLINE OF FORENSIC PSYCHIATRY IN INDIA INDIAN JOURNAL OF PSYCHIATRY (2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5282613/> (last visited Mar 25, 2020).

1. Marriage and mental health legislations.
2. Various laws related to marriage and divorce existing in India with special emphasis on Family Court Act, 1984
3. Section 118, The Evidence Act 1925
4. Section 6, 11, and 12, Law Of Contract
5. Right To Vote And Stand For Election under the Constitution of India
6. Section 59, The Indian Succession Act, 1925 (Testamentary capacity)

FORENSIC PSYCHIATRY IN CRIMINAL COURTS

A myriad of aspects are integral to forensic psychiatry. These aspects include use of forensic psychiatry in ascertaining whether the accused is guilty, the ability of a witness to stand in testimony as well as the provision of treatment for mentally ill offenders. Some of the provisions of the criminal legal proceeding are enlisted below:

1. Mentally ill individuals who commit a crime are dealt under Sections 328 to 329 of the Criminal Procedure Code, 1973.
2. Criminal responsibility under Section 84 of Indian Penal Code, 1860.
3. Penalisation of attempt to commit suicide under Section 309 of Indian Penal Code, 1860.
4. The right to private defence against an insane person under Section 98 of Indian Penal Code, 1860.
5. Misconduct in public under intoxication. For example alcohol intoxication Section 510 of Indian Penal Code, 1860.

A. *MENTALLY ILL OFFENDERS*

Prison based mental health services are in a very rudimentary state in India, although most prisons do have facilities to address minor health issues. At some prisons, there are facilities of a visiting psychiatrist. A psychiatrist is called upon for the evaluation of a criminal if there any signs of mental illness or if there was a history of mental illness. The mental condition of the offender is of concern for judicial system in two situations, one at the time of committing the crime and other at the time of standing for trial. When a psychiatrist is called upon for such evaluation, the patient may be admitted in the psychiatric inpatient facility or he might be treated in outpatient facility. If the patient was ill at the time of committing crime, he can plead

for insanity defence under Section 84 IPC, and this plea has to be raised at the time of commencement of trial.

In many cases, the offender is sent for evaluation many years after the event of crime, so it becomes difficult to exactly tell about his mental status at the time of committing offence. However, it is also imperative to note, many a time's offenders try to feign insanity, and lack of any objective tests in psychiatry makes it all the more difficult to exactly comment on the mental status of the patient. Hence, to stop the patients from trying to feign insanity, they should be kept totally isolated from the rest of psychiatric patients. This can be implemented only by creating a dedicated infrastructure and workforce for forensic psychiatry.

Emphasis must be laid upon the fact that, in some courts, noncriminal mentally ill patients are judged to have done the crime and are detained in prisons, and these mentally ill patients are kept in a very bad condition violating all human rights.

A study in 1982 done in different jails of West Bengal reveals that among the mentally ill prisoners, 98% were noncriminal.¹⁷ Another study done in the Tihar jail of Delhi in 1998 revealed that the prevalence of psychiatric illness in prisoners was 3.4%. It was also found that depression and schizophrenia were the most common diagnosis in patients involved in major crimes, and majority of the patients with schizophrenia were implicated in homicide case.¹⁸ The above findings indicate an urgent need to divert mentally ill prisoners to mental health setups.

B. ABILITY TO STAND TRIAL

Another use of a forensic psychiatrist in the criminal courts is to help adjudicate upon the mental competence of a defendant. This provision, enshrined under Section 83 of the IPC, has been adopted straight from McNaughton rule according to which “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 an act, or that he is doing what is either wrong or contrary to the law.”

¹⁷ Shah LP, Forensic psychiatry in India current status and future development, 41 Indian J Psychiatry 179, 85 (1999).

¹⁸ Chadda RK, Amarjeet, Clinical profile of patients attending a prison psychiatric clinic, 40 Indian J Psychiatry 260, 5 (1998).

Two very important terms here are legal insanity and medical insanity among which only legal insanity can be used for insanity defense.¹⁹ It should be further established that the person who committed the crime was legally insane at the time when he committed crime to obtain insanity defense. This is usually established by assessing the circumstances before the crime, at the time of crime, and following crime. However, even with all these advancements, it is difficult to exactly comment about the mental status of the offender at the time of committing the crime, because in India more often than not the offender will be brought for psychiatric evaluation many years after the crime has been committed.

One way to mitigate this problem is to have dedicated forensic psychiatrists in prisons, who are going to conduct mandatory pretrial observation in suspected offences by the mentally ill. By doing so, the offender can be screened as near to the event of crime as possible, and the necessary evaluations can be undertaken. Such system is in place in Norwegian legal system where the suspected mentally ill are screened and are labelled as either (1) evaluation recommended or (2) evaluation not recommended or as (3) undecided. This screening system helps in saving money and time of procedure.

INTERPHASE BETWEEN FORENSIC PSYCHIATRY AND SOCIO-LEGAL SITUATIONS

A. MARRIAGE AND MENTAL ILLNESS

Marriage is a social institution which sets out rules and regulations defining the rights, duties, and privileges of husband and wife.²⁰ When a marriage becomes stressful, psychiatrist and legal experts are called to give their opinion. There are two important terms which are defined in relation to ending the contract of marriage: Firstly, divorce which is a legal dissolution of valid marriage when it cannot be continued anymore and secondly, nullity of marriage, marriage is legally non-existent and a valid marriage did not occur. There are different laws regulating marriage and separation. Five important acts are as follows:

1. Hindu Marriage Act 1955
2. Special Marriage Act (1954)
3. Indian Divorce Act (1869) for Christians (Amended in 2001)

¹⁹ Pratima Murthy et al., MENTAL HEALTH AND THE LAW: AN OVERVIEW AND NEED TO DEVELOP AND STRENGTHEN THE DISCIPLINE OF FORENSIC PSYCHIATRY IN INDIA INDIAN JOURNAL OF PSYCHIATRY (2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5282613/> (last visited Mar 25, 2020).

²⁰ Nambi S. Marriage, mental health and the Indian legislation. Indian J Psychiatry. 2005;47:3–14.

4. Dissolution of Muslim Marriage Act (1939) and Muslim Personal Law
5. Parsi Marriage Act (1936).

In these acts, unsoundness of mind is a ground for null and void marriage, but the position of intellectually disabled people has not been clearly addressed. There is also one more clause that is “when the consent is obtained by fraud or force” marriage can be considered null and void. Moreover, the term “Fraud” has not been clearly defined, and many people file divorce case just for concealment of mental illness that was there before marriage.

B. TESTAMENTARY CAPACITY

Testamentary capacity is the ability to make a will, which is a legal document signed by the person making a will in the presence of at least two witnesses. Any person who has reached majority and having sound mind can make a will under Section 95 of Indian Successions Act (1925).

Many a times, a psychiatrist is called upon to assess the mental state of the person who is making a will. The mere presence of psychiatric illness will not make a person incapable of making a will, but if the person is in such a state of mind due to his mental illness that he does not know what he is doing, then he might be considered incapable of making a valid will, so a person having psychiatric illness is allowed to make a will if his judgment is intact. The psychiatrist will have to assess if there is any coercion, compulsion to make a will. The person making the will should be well aware of what he is doing. Testator should be aware of the properties he has got. He should be aware of the beneficiaries of the will. Testator should also be aware of the consequences of the will he making.²¹

C. LEGAL GUARDIANSHIP

Legal guardianship is another issue wherein services of forensic psychiatrist are sought after. A small proportion of persons with major mental illnesses end up having severe forms of the illness, and then they lose the capacity to take care of themselves and lose the ability to make proper decisions with regard to themselves and their property. In such situations, an application can be put to court for the appointment of a legal guardian after which the person is sent to a psychiatrist for assessment of his mental condition. Assessment in such cases is more detailed than the routine psychiatric evaluation. The issue that needs to be addressed in such cases is

²¹ Jiloha RC. MENTAL CAPACITY/TESTAMENTARY CAPACITY, CLINICAL PRACTICE GUIDELINES ON FORENSIC PSYCHIATRY. Indian Psychiatric Society; 2009. pp. 20–34.

not just mere presence or absence of psychiatric illness but the severity of psychiatric illness and if it is making a person incapable of taking care of self or/and managing his/her property. After making the complete evaluations, forensic psychiatrist needs to prepare a certificate as well which will be used as evidence in court of law.²²

FUTURE DIRECTIONS FOR FORENSIC PSYCHIATRY IN INDIA

Forensic psychiatry remains a neglected area in India and other countries in South-East Asia. This is unlike many of the developed settings where it has become an established subspecialty with a focus on clinical services, training, and research. Academic centres need to actively engage in developing this area. They need to consider the fast-growing need of developing this specialty, recognize the vast scope of the field, and device curricula that cater to the diverse needs of the country. Dedicated clinical services need to be started for this vulnerable patient population.

Apart from the dedicated fellowships and super-specialties, training courses catering to the different mental health disciplines (psychiatry, clinical psychology, psychiatric social work, and psychiatric nursing) students in other branches of medicine and law also need to be trained in the forensic aspects of mental health care. In addition, various other stakeholders who need regular sensitization and training in issues relating to mental health include law enforcement agencies, judiciary, advocates, and women and child welfare departments, commissions related to the mental health (including the Human Rights Commissions, Women's Commissions, Child Welfare Commissions, etc.).

It is important for government to take initiatives to establish centres of excellence in forensic psychiatry. One such effort has begun at the NIMHANS, Bengaluru, where such a centre has been conceptualized, and a postdoctoral fellowship in forensic psychiatry has been initiated in 2016. The proposed centre, called the Centre for Human Rights, Ethics, Law and Mental Health, has the objectives of:

1. enhancing trained human resources in the areas of forensic psychiatry, law and human rights of persons with mental illness,
2. establishing and providing the highest standards in diagnostic and investigative approaches in forensic psychiatry,

²² R K Chadda, FORENSIC EVALUATIONS IN PSYCHIATRY INDIAN JOURNAL OF PSYCHIATRY (2013), <https://www.ncbi.nlm.nih.gov/pubmed/24459315/> (last visited Mar 25, 2020).

3. developing a state of art clinical and resource facility in forensic psychiatry, (d) facilitating the development of quality forensic services in different parts of the country,
4. contributing to capacity building by providing training in forensic psychiatry for mental health, medical, police personnel, human rights activists and law professionals,
5. developing and strengthening inter-disciplinary, inter-institutional and international collaboration to foster research in forensic psychiatry,
6. developing guidelines, standard operating procedures, providing expert opinion in the area of forensic psychiatry

CONCLUSION

Agencies such as central forensic labs, the CBI and even the police could employ forensic psychologists to undertake such tasks of compilation, analysis and extrapolation from crime data. Various studies, and reports in the Netherlands, Australia and the US, have provided evidence for success of such profiling, and it would be a step in the correct direction for Indian agencies to adopt the same on a more formal level. While these investigative benefits of forensic psychologists persist, their role in prison systems is also imperative.

Indian prisons fall behind significantly when it comes to offender interviewing and rehabilitation policies after sentencing. There is minimal structure in place when it comes to remanding offenders. While in countries such as the UK, forensic psychologists conduct objective interviews of offenders and then suggest a basic treatment plan to a clinical psychologist, who delves into the subjective issues, no such hierarchy prevails in India, where a prison psychologist is largely unheard of. 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. Therefore, Indian prisons would benefit the most from usage of forensic psychologists.

As a country with one of the highest crime rates in the world, India faces several challenges when it comes to dealing with different aspects of crime. While applying these interventions may sound good in theory, there is a long way to go before these can be successfully

implemented. The key is to solve this case of missing forensic psychologists, and make optimum the use of their expertise to strengthen the criminal investigation and correctional processes in India.

