
APPLICATION OF PSYCHOLOGICAL THEORY OF CRIMINOLOGY IN CASES OF HEINOUS CRIME AGAINST WOMEN IN INDIA: WITH SPECIAL REFERENCE TO PSYCHODYNAMIC THEORY

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ABSTRACT

Crime is a part of society, so are criminals. Finding an exact and all applicable reason for the cause of crime and criminal behavior has been and will remain a difficult task. Yet one may agree that society and social ecology plays a major role in determining the reasons behind crime and criminal behavior. Social factors contributing to commission of crime cannot be put within closed brackets, as with the development and changing nature of society these factors would also keep expanding and be subject to alteration. Discussion concerning the causation of crime needs a contemplation of psychological theories especially in cases of heinous, brutal, gruesome and oblivion crime against women. The few gruesome criminal case for crime against women for e.g. The Tandoor Case, The Ntihar case, the Nirbhaya Rape Case, and more recently the RG Kar rape case, forces an individual to question the psychology of the offender or suspect as the case may be.

The first question which comes to the mind of an individual who becomes aware of the brutality, inhuman treatment and insensitivity of such crime, is the psychology of the offender. The pertinent question which needs deliberation is, how far the Court considers the psychology of the accused while determining liability and imposing punishment. Do the theories propounded by criminologist of the psychological school play an influencing and assistive role in determining the criminal liability or punishment? Are the theories propounded by criminologist of psychological school of any use in the Indian Criminal Justice System?

This research is an attempt to find out the answers to the above question. This paper would analyze the role psychological theories of criminology play, in influencing the decision of the courts in cases of brutal, gruesome and rarest or rare case of crime against women.

Keywords: Crime, Criminology, Causation, Psychological School, Liability.

INTRODUCTION:

Criminology is a branch of social science which deals with the scientific study among the scholars, practitioners and academicians related to the causation, correction and prevention of crime. Criminologists study a wide field of subjects related to crime like psychology, economics, anthropology, psychiatry, biology, statistics etc. The major objective in the study of criminology is to find the definition of crime, criminal behavior, crime detection, crime prevention and reforms in justice delivery system. It has its genesis from sociology as most of the criminologists have played a major role in the development of the subject. Criminology is considered as an applied discipline as its findings have an influencing effect on the legislators, judges, prosecutors, lawyers, probation officers, prison officers and also criminal psychologists. One ultimate goal of criminology is the development of theories of criminal behavior or the causation of crime, which can be tested by the use of collected data. This goal of criminology has resulted into the establishment of various schools of criminology and the increase in academic research, discussion, deliberations and programs specially related to crime and the criminal justice system.

Theoretically, the facet of criminology has a long history¹. The modern day criminologist puts forth different perspectives of causation of crime or criminality. Criminality is a clinical or scientific term devoid of legal elements. It may be defined as;

*“Criminality is a property of individual that signals the willingness to commit those and other harmful acts”.*²

The Criminality of the person is what forms the bases of determining criminal liability in India. Criminality establishes *mens rea* that is, the intention and knowledge which is ‘the essential’ for commission of crime. Criminologists by testing the different forms of criminality on collected data try to find answer to the causation of crime. The Classical School of criminology emerged with writings of Cesare Beccaria and Jeremy Bentham who suggested that commission of crime was not related to religion, superstition or myth but because of something

¹ For example, in Politics, Plato’s student, Aristotle (384-322 B.C.), stated that “poverty engenders (to make a feeling) rebellion and crime (Quinney 1970).” Section One: Introduction; available at <http://ndl.ethernet.edu.et/bitstream/123456789/79216/2/Criminology%20Note.pdf>; visited on 11/19/2020, 9:40AM.

² (Gotfredson & Hirsh, 1990); Section 1: Introduction and Overview of Crime and Criminology; available at: https://www.sagepub.com/sites/default/files/upm-binaries/59323_Chapter_1.pdf; visited on: 11/17/2020; at 12:02 PM.

which was beyond the control of the human being and thereby it was committed by function of free will. The most impactful was the thought of the Positivist School of Criminology, where Cesare Lombroso's theory of atavism or born criminals, as illustrated in his influential work '*Criminal Man*', establishes that there was an era where criminology was neither dominated by free-will nor endorsement of external influence but by determinism.³ Lombroso mainly suggested that some criminal behaviors are due to biological factors i.e. their physical appearance. In the 1920s the positivist school took over the classical thought of causation of crime mainly a large number of influential writings from the Chicago School. The studies of Shaw and Mackay, Merton and Sutherland focused mainly on the social ecological approach. Their attraction towards economic disadvantage, community cohesion, collective efficacy and social stability as factors for crime and criminal behavior established a dominant paradigm.⁴

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³ Mille J. Mitchell; 21st Century Criminology A Reference Handbook; 2009 by SAGE Publications, Inc; at pg. 5.

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PSYCHODYNAMIC THEORY:

Explaining the causation of crime on the basis of psychological factors has been referred by various criminologists with a variety of approaches and concepts, yet in the Indian criminal justice system one may agree with the observation of Valier (1998); ‘psychoanalysis has had relatively little to say directly about crime.’ Sigmund Freud’s (1856 – 1939)⁵, the ‘father of psychoanalysis, explains the criminal conduct as irrational and unconscious motivations. Freud conceives humans as inherently anti-social, having pleasure-seeking impulses that conflict with the broader interests of social groups. The three central concepts used by Freud to explain criminal conduct through his psychoanalytic theory are:

- *Id*: is the unconscious aspect of human personality. The Id is considered by Freud to be the primary component of personality. Id according to Freud is the pursuit to achieve immediate gratification of desires, which is mostly driven by pleasure principle;
- *Ego*: the second aspect according to Freud is an element of personality which compensates for the demands of the *Id* by enabling an individual to regulate his actions and behaviors within the boundaries of society. The ego is driven by the reality principle.
- *Superego*: consists of all the morals standards and values of the community. It develops as a person incorporates these morals and values within himself. Originally the superego was conceived as part of the unconscious mind while “in the contemporary psychoanalytic theory the superego is partly conceived as a conscience which works to neutralize impulses that run contrary to internalized moral rules”.⁶

The advocates of psychodynamic theory have often suggested that a crime is committed by an individual majorly because of the underdeveloped superego.⁷ To put it in brief the jurists of

⁵ Newburn Tim, *Criminology, Part 2 – Psychological Positivism*, 2017, 3rd edition by Routledge Francis & Taylor, at pg. 161.

⁶ Newburn Tim, *Criminology, Part 2 – Psychological Positivism*, 2017, 3rd edition by Routledge Francis & Taylor, at pg. 161..

⁷ Mille J. Mitchell; *21st Century Criminology A Reference Handbook*; 2009 by SAGE Publications, Inc; at pg. 272.

psychodynamic theory believe that the individuals committing crime are frustrated and aggravated, constantly drawn by the events which impacted their childhood, having weak ego due to the absence of love, care, nurturing with affection, maturity social behavior etc. Among many other factors such as mental disorder, mental illness, behavioral theory cognitive theory etc., one factor i.e. psychopathic personality which includes antisocial personality, psychopathy or sociopath all used interchangeably is considered by the jurist of psychodynamic theory as being a major trait of a chronic offender. One may agree to the observation that “if personality traits can predict crime and violence, then one could assume that the root cause of crime is found in the forces that influence human development at an early stage of life (Siegal, 2008).⁸

It is an established fact that the relationship between psychology and criminal behaviour especially with regard to violence against women is significant. The psychodynamic theory asserts that in an attempt to find out or understand the reason behind the commission of criminal act either by a scholar or any person dealing with such issue should give recognition to the psychological theories. One reason also for recognizing the psychological theory in dealing with a criminal matter is that the mens rea i.e. intention is an essential element in most of the crimes and specifically crime committed against women, therefore the psychology of the accused may be questioned

Having established that in committing a crime jurists of psychodynamic theory agrees that psychological factor is relevant how far the judiciary applies or uses this theory while deciding a liability under crime against women.

APPLICATION OF PSYCHODYNAMIC THEORY BY INDIAN JUDICIARY:

Heinous crime against women is a not a crime of recent origin. Women have been and are being subjected to heinous crime since ages but the nature in the present day is brutal and gruesome. The perusal of the facts of the famously infamous cases of crime against women especially rape against women in the recent past such as the Nithari case, The Tandoor case, the Nirbahaya case, and the RJ Kar Rape case would instantly raise a question on the psychological of the offender. The brutality, gruesome, inhumanity committed on the victim certainly establish that such a grave inhumanity and brutality cannot be committed by an

⁸ Ibid 8.

ordinary man with stable mental condition. To commit such gruesome act a person may have been either under the influence of intoxication, or an insane or suffering from some psychological problem.

The Nithari Judgement⁹: This case which shook the mind of public was related to the murder of helpless women and children by the case was filed against Moninder Pandher and Surender Koli where Surender Koli was implicated for the commission of murder, abduction, rape and destruction of evidence and Moninder Pandher was accused of immoral trafficking. The important point for our discussion on this topic is that during investigation of the case CBI looking into the nature of the crime committed where the accused Surender Koli was found to commit rape of a number of young girls and keeping their dead bodies and eating flesh from the dead bodies had constituted a medical board had in this case. “The committee had to conduct mental test of Surendra Koli as referred by C.B.I. He was sent for Forensic Psychotic Assessment. The whole committee examined him and found that he was suffering from Necrophilia and Necrophiliac.”¹⁰ “The committee concluded in its twenty page documents relating to the test that the accused was not suffering from any psychotic disorder or mental illness.”¹¹ The court decided in this case that crime committed by accused was not only gruesome and cold but blooded, blood curdled, heinous, atrocious and cruel. The court awarded the accused death penalty which is not only a proof that justice not all was seemed to be done but actually done. The question of his psychological condition may if said to present may have mitigated his punishment but on the basis of the report where he was found to be not suffering from any psychotic disorder or mental illness is questionable. As for any ordinary man eating flesh of human being or committing rape with dead bodies is not normal and to do so one definitely may be presumed to be suffering from some mental disease. The committee in its report submitted defined Necrophalia as “a kind of paraphilia, which is kind of sexual perversion disorder”.¹² Even the MSD Manual asserts that “It is controversial whether all paraphilic development results from the psychodynamic processes.”¹³

⁹ Surendra Koli v. State of U.P. & Ors, Cr. A. No. 2227 with S.L.P. (Cri) No. 608 of 2010, 15-2-2011 (India).

¹⁰ Nithari Court Judgment; CRIMINAL (CAPITAL) APPEAL NO. 1475 OF 2009 (From Jail) REFERENCE NO. of 2009; <https://indialawyers.wordpress.com/nithari-high-court-judgement-acquits-pandher/>; visited on 25 April, 2025.

¹¹ Ibid 10.

¹² Ibid 10

¹³<https://www.msmanuals.com/professional/psychiatric-disorders/paraphilias-and-paraphilicdisorders/overview-of-paraphilias-and-paraphilic-disorders>; visited on 25 April, 2025; at 10:55pm

The Tandoor Murder Case (The State v. Sushil Sharma)¹⁴: When obsession takes over love in a relationship, it may suffer grave consequences. One such instance was the fact of the case of *State v. Sushil Sharma*¹⁵ where the accused Sushil Sharma was accused of the murder of his said wife Naina Sahni. The accused being a political figure tried to keep their marriage a secret as a result of which there were frequent quarrels between the couple. The accused even suspected his wife's character. On July 02, 1995, when the accused returned to his flat in Mandir Marg, Delhi, he found his wife in deep conversation with someone over the phone. The wife in panic disconnected the call, which led the accused to redial the number and found the number to be one of her fellow mates, Matloob Karim. In fit of anger the accused shot three bullets on his wife which led to her death. The incident is more shocking and shatters the conscience of the public as pursuant to the murder realizing that his wife is dead the accused carried the dead body to his restaurant Bagia Bar-be-Que where he chopped the corpse into pieces and dumped it in the Tandoor with the help of the co-accused, Keshav Kumar. A strong chain of circumstantial evidence found the accused to be guilty of the murder beyond reasonable doubt. The Court awarded death penalty under Section 302 IPC. The apex court while deciding on the issue of death sentence awarded to the appellant referred to the guidelines provided by the Hon'ble Supreme Court from time to time in this aspect and it took special reference of one of such, viz., *State of Rajasthan v. Kheraj Ram*¹⁶ where this court looked into para 26 of this case specially which with regard to the 'special reason' to award death sentence.

“In *State of Rajasthan v. Kheraj Ram*¹⁷, referring to the punishment prescribed under section 302 of Indian Penal Code, 1860 which is death or life imprisonment, the court spoke about instructions which the code provides to the court in its application. The court recognized the fact that the criminal codes have undergone in the last three decades taking note of the contemporary criminological thought and movement. The court affirming that the death sentence is ordinarily ruled by the incorporation of the 'special reason' rule provided in section 354(3) of the Criminal Procedure Code, 1898. Elaborating the application of the 'special reason rule' the court has further clarified that in the 'special reason' must have some relation to factors like; the personality of the offender as revealed by his age, character, antecedents and other circumstances and the tractability of the offender to reform. The court further held that,

¹⁴ (2013) 8 SCC 770

¹⁵ (2013) 8 SCC 770

¹⁶ 2003 (8) SCC 224

¹⁷ 2003 (8) SCC 224

Criminal justice deals with complex human problems and diverse human beings. A Judge has to balance the personality of the offender with the circumstances, situations and the reactions and choose the appropriate sentence to be imposed.”¹⁸

Taking reference of the case of *State of Rajasthan v. Kheraj Ram*¹⁹, the court in *State v. Sushil Sharma*²⁰ uphold the appellants death penalty and observed:

*“The act of the appellant is so abhorrent and dastardly that in case death penalty is not awarded to him it would be a mockery of justice and conscience of the society at large would be shocked. This is surely a case which falls within the category of 'rarest of rare cases' in which no other punishment except the death penalty would be justified. There are no chances of this kind of a person reforming himself.”*²¹

The court has indeed provided justice to the victim by upholding the death penalty. The court by referring the case of *State of Rajasthan v. Kheraj Ram*²² also given importance and weightage to the criminological thinking and philosophy yet the question is, can a person of sound mental capacity dare to chop the body of his wife into piece? What psychology does the offender poses to cut off a person who he loves, into pieces? Agreeing to the fact that, these questions are not relevant to be inquired into to impose criminal liability, when the court has looked into the criminological thinking and movement to play a significant role in bringing change in the matters of sentencing, doesn't the courts need to question the psychology of the offender, if not for determining liability but to create a precedent that even a person with such psychological imbalance will not get a relief of any nature, if the guilt is established beyond doubt.

The Nirbhaya Rape Case (*Mukesh & Anr vs State For Nct Of Delhi & Ors*)²³: The famously infamous case i.e. The Nirbhaya rape case, where a 23 year old young lady pursuing here papa medical studies was brutally gang raped by six men, on the cold evening of 16th December, 2012, shook the conscience of every human being around the world. The fact of the case deals with the brutal gang-rape and murder of the young lady, involving most gruesome and barbaric

¹⁸ 2003 (8) SCC 224; (2013) 8 SCC 770

¹⁹ 2003 (8) SCC 224

²⁰ (2013) 8 SCC 770

²¹ 2003 (8) SCC 224

²² 2003 (8) SCC 224

²³ (2017) 6 SCC 1

act of inserting iron rods in her private parts. The accused not only abducted the victim, but gang-raped her, committed unnatural offence by compelling her for oral sex, bit her lips, cheeks, breast and caused horrifying injuries to her private parts by inserting iron rod which ruptured the vaginal rectum, jejunum and rectum. It brought into question, the safety, security, dignity and life of a women in India.

The court in the first paragraph of its decision states, that the victim suffered immense trauma and eventually death because of the six men's "attitude, perception, the bestial proclivity, inconceivable self-obsession and individual centralism".²⁴ By describing the six accused in terms of their personality, the court has shown a bent towards considering the psychological condition of the accused but refrained itself from question the psychological factors involved in the commission of the brutal and inhuman crime committed by them.

Unlike the Tandoor case the court referring a number of cases²⁵ has upheld in this case that "*where the victims are helpless women, children or old persons and the accused displayed depraved mentality, committing crime in a diabolic manner, the accused should be shown no remorse and death penalty should be awarded*"²⁶.

Further, the court while looking into the aggravating circumstance in the present case has observed; "*The horrific acts reflecting the in-human extent to which the accused could go to satisfy their lust, being completely oblivious, not only to the norms of the society, but also to the norms of humanity*"²⁷

The RG Kar Case²⁸: Another dreadful example of the heinous crime against women is the case of the brutal rape and murder of a trainee on duty doctor at RG Kar Hospital, Kolkata. The happening of the brutal of the sexual assault and the nature of the crime had shocked the conscience of the nation. The Addl. Session Court, Sealdah deciding the severity of the crime

²⁴ (2017) 6 SCC 1

²⁵ Holiram Bordoloi v. State of Assam (2005) 3 SCC 793 [Para 15-17], Ankush Maruti Shinde and Ors. v. State of Maharashtra (2009) 6 SCC 667 (para 31-34), Kamta Tiwari v. State of Madhya Pradesh (1996) 6 SCC 250 (para 7-8), State of U.P. v. Satish (2005) 3 SCC 114 (para 24-31), Sundar alias Sundarajan v. State by Inspector of Police and Anr. (2013) 3 SCC 215 (para 36-38, 42-42.7, 43), Sevaka Perumal and Anr. v. State of Tamil Nadu (1991) 3 SCC 471 (para 8-10, 12), Mohfil Khan and Anr. v. State of Jharkhand (2015) 1 SCC 67 (para 63-65).

²⁶ Para 126 (2017) 6 SCC 1

²⁷ Parar 141 (2017) 6 SCC 1

²⁸ Sessions Trial No. 01(11)2024 Sessions case No. 77 of 2024 CNR WBSP07-003708-2024; available at https://images.assettype.com/barandbench/2025-01-20/eob14cyw/RG_Kar_Case___Judgment.pdf; visited on 20/5/26; 16:06 hrs.

observed as follows:

*“In evaluating the severity of this case, several factors come into play. The brutality of the crime is a primary consideration. The combination of strangulation, smothering and brutal sexual assault demonstrates a level of cruelty that goes beyond the pale of ordinary criminal behaviour. The series of violent acts suggest a prolonged and agonising ordeal for the victim, indicating a complete disregard for human life and dignity. The method of execution of the crime, involving multiple forms of assault, speaks to a deliberate and sustained intent to cause harm, elevating the gravity of the offence.”*²⁹

The court in deciding on the sentence of punishment to be awarded in this case has observed as follows:

*“The apparent absence of any extenuating factors for the convict's actions further compounds the severity of the case. Mitigating circumstances, such as mental illness, extreme provocation or a history of abuse, often play a role in tempering sentences”.*³⁰

The Court after make it clear that there is a lack of such mitigating factors in the present case leaves little room for leniency, went on further to debate on deterrent punishment and reformative action argued that the certainty of punishment, rather than its severity is more effect by the following observation:

*“The possibility of reformation is another crucial factor that courts must consider. The judicial system must weigh whether the convict, given the nature and the circumstances of their crime, shows any potential for rehabilitation and reintegration into the society. This assessment often involves considering the convict's background, behaviour during trial, expressions of remorse and expert opinion on their psychological profile.”*³¹

The court agreed that, the crime committed by the convict was barbaric and brutal and that the

²⁹ Sessions Trial No. 01(11)2024 Sessions case No. 77 of 2024 CNR WBSP07-003708-2024; available at https://images.assettype.com/barandbench/2025-01-20/eob14cyw/RG_Kar_Case___Judgment.pdf; visited on 20/5/26; 16:06 hrs.

³⁰ Sessions Trial No. 01(11)2024 Sessions case No. 77 of 2024 CNR WBSP07-003708-2024; available at https://images.assettype.com/barandbench/2025-01-20/eob14cyw/RG_Kar_Case___Judgment.pdf; visited on 20/5/26; 16:06 hrs.

³¹ Sessions Trial No. 01(11)2024 Sessions case No. 77 of 2024 CNR WBSP07-003708-2024; available at https://images.assettype.com/barandbench/2025-01-20/eob14cyw/RG_Kar_Case___Judgment.pdf; visited on 20/5/26; 16:06 hrs.

gruesome act of the convict were diabolic in their conception and cruel in execution, yet it classified the crime to be outside the purview of the 'rarest of rare case'. The court awarded rigorous imprisonment for life with fine.

The court in this case failed to order for a psychological assessment of the convict when it considers, that reformation is a crucial factor. To observe that the judicial system must weigh whether the convict, given the nature and circumstances of their crime, shows any potential for rehabilitation and reintegration into society, has failed to find out whether the convict in this case, has that potential by ordering for his psychological assessment. Scope of reformation, rehabilitation and reintegration arises only when a psychological assessment is done by an expert committee and they certify that there is a possibility of the same, without having performed any such assessment should the court on the notion of providing reformatory justice without conducting a psychological assessment on the possibility of reformation of the accused/convict decide the sentence in cases of gruesome, brutal and heinous crimes?

CONCLUSION:

The facts and circumstance of all the above discussed cases establishes that the crime committed in each of them were in nature brutal, cruel, gruesome and heinous. Linking the psychological theory in each of these cases is essential to establish that the court in few matters should consider the application of this theory while dealing with cases of such nature.

As discussed earlier Sigmund Freud, the father of the psychoanalysis has asserted, humans to be anti-social, having pleasure seeking impulses. He has explained that criminal conduct to be irrational and unconscious motivations. In all the three cases viz, the Nithari case, the Tandoor case, the Nirbhaya Case and the RG Kar rape case the acts of the convicts are antisocial, pleasure seeking behaviour and irrational, creating a space that there required the application of the psychological theory in determining the nature of the crime, if not in determining the liability.

The three central concepts of criminal conduct as per Freud's psychoanalytical theory that is *Id*, *Ego* and *Superego* gets completely established in all the cases discussed above. *Id* as per Freud is the pursuit to achieve immediate gratification of desire, mostly driven by pleasure principle. In Nithari case when the convict Surender Koli lured the young girls to his house with the sole motive of killing them and committing rape with their corpse, the presence of the

Id i.e. achieving immediate gratification of the desire of pleasure gets completely established. His act of luring the young girls to his house in pretext of giving them household works establishes the convicts weak *Superego*, which according to Freud consists of all the morals standards and values of the community.

Similarly, in Nirbhaya and the RG Kar case the act or the manner of execution of the crime establishes that the convicts in both the cases possess the *Id*, which is the pursuit to achieve immediate gratification of desire mostly pleasure driven for which their superego which is the morals and values present in them is weakened, thereby committing the crime. In the contemporary psychoanalytic theory the superego is partly conceived as a conscience which works to neutralize impulses that run contrary to internalized moral rules. In all the cases discussed in this research paper and also the other cases not discussed related to heinous crime against women one would generally find the presence of this weak superego which results in the commission of the crime.

In India the courts have not attempted to involve psychological experts in cases of this kind and nature, the reason being that establishing any kind of mental disorder or disability may set the accused free from all liabilities or his punishment may be remitted, in spite of his crime being established beyond reasonable doubt.

The Court's restraint in not looking into the psychological condition of the accused in determining liability is justified in the eye of law. It can always be argued looking into the growing number of such brutal and heinous crimes being committed against women and the role of the courts in protecting the rights of individuals and society at large; that had the court applied the psychological theory in any of such cases and upheld that criminals; who are psychologically dangerous to the safety and security of the society and end up committing crimes of such brutal nature; who does not have a control on his *superego*; whose personality has a higher element of *Id*, would necessarily demand a punishment which would create deterrence in the community of such individuals. The argument is that at the present day context where the nature of the crime is changing with the psychological condition of the criminals the consideration in determining the liability should also change.

Looking at the recent sentencing policies adopted by the court especially referring the RG Kar rape case, where the court awarded life imprisonment to the convicts, based on the rationale that, the rule of sentencing is leaning towards reformation and the case being found not to come

within the purview of rarest of rare case, the study of the criminology is losing its relevance in the system of criminal justice administration. The study of criminology and its theory in Indian Criminal Justice System remains confined to research and its findings play no role in the court rooms and therefore it remains confined to books and journals. It's time that the court should now think of bringing changes in the law relating to general exception on the grounds of mental disorder especially looking into the nature and the manner of the execution of the crime committed against women in the recent past.