

PSYCHOLOGY OF SERIAL KILLER VIS-À-VIS THE PLEA OF PSYCHOLOGICAL DEFECT

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ABSTRACT

In order to understand a serial killer, reference should be made to the biological, psychological and socio cultural elements which contributed to the heinous and violent crimes they ultimately committed. As that such behavioural deviation if spotted at an early stage then psychological counseling could help a child in such a way that they could even refrain from committing crimes in adulthood; as many of the violent ideas stems from issues faced at a young age. Not much stress is laid on the fact that serial killers act in such gruesome manners due to mixture of their nature and nurture. The plea of psychological defect would offer an opportunity to such criminals who are the victim of their own mind to reform and rehabilitate. Thus, the study proposes on reformation of such offenders and not considering incarceration as the only form of punishment. The research paper relied mainly on doctrinal method whereby the researcher referred to primary sources such as books, case laws, relevant publications and literature.

KEYWORDS: Serial Killer; Legal Insanity; Medical Insanity; Psychological Defect; Death Penalty.

1. INTRODUCTION

Serial killers have been subject of concern for law enforcement agencies and the public since time immemorial for the reason being that they are hard to identify and comprehend. In order to understand a serial killer, reference should be made to the biological, psychological and socio cultural elements which contributed to the heinous and violent crimes they ultimately committed.

While some of the serial killers develop such instincts to commit crime due to the surroundings they are in while others have an inherent mental illness which coupled with other factors often lead them to commit a crime. Such a psychopathic behavior is not normal and cannot be put at par with individuals who are medically and legally sane. The serial killers even though are legally sane but at times they can be considered to be medically insane. Such serial killers can be termed as psychopaths.

There are many different types of mental illnesses. Unfortunately, they are all grouped together as being similar. The result being that mental illness such as psychopathy is not recognized in Indian justice system. Thus, the fundamental argument of this research paper is that since serial killers typically do not qualify as legally insane, a defence of psychological defect should be recognized and made available to them. Whereby, it can be argued under the

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plea that they should rather be provided psychiatric assistance rather than imprisonment for the sole reason being that they are the victims of their own mind. A psychiatric assistance would be a step towards reformation rather incarceration.

1.1 OBJECTIVES OF STUDY

- To analyse the working of mind of a serial killer.
- To analyse whether an individual is born criminal.
- To analyse whether death penalty is justified in case of a serial killers.
- To analyse the defence that can be taken by serial killer in Court of law.

1.2 RESEARCH METHODOLOGY

The research in this paper has been done having reliance mainly on doctrinal method of research whereby the researcher depended upon primary sources like books, case laws, relevant publications and literature, case studies on various serial killers.

2. INSIDE THE MIND OF A SERIAL KILLER

A serial murder is a strange, horrifying and common phenomenon. Even though the act of serial killings has received a lot of attention in the past few years but the fact of committing murders in pattern has existed since time immemorial. Still, criminologists have struggled to give a precise definition of serial killing.

In its initial stages, serial killing was referred to as “desire murder” by the FBI.¹ There are numerous definitions used to define serial killers but fundamentally they fit the following description²:

1. Serial killing is said to take place when three or more murders occur over a period of time.
2. Between each killing there is a cooling off period which might last up to one week or month or even year.
3. Generally there is no connection between victim and assailant.
4. Many serial killers move from one geographical location to another.

In order to understand the plea of psychological defect it is essential to understand the psychology of a serial killer. Understanding serial murderers’

¹ S. A. Egger, *Working Definition of Serial Murder and the Reduction of Linkage Blindness*, 12 J. Police Sci. Adm. 348 (1984), <https://www.ojp.gov/ncjrs/virtual-library/abstracts/working-definition-serial-murder-and-reduction-linkage-blindness> (accessed on June 25 June, 2024).

² Nicola Malizia, *Serial Killer: The Mechanism from Imagination to the Murder Phases*, 7 Sociol. Mind. (2017), <https://www.scirp.org/reference/ReferencesPapers?ReferenceID=1995036> (accessed on 30 June, 2024).

behavioural patterns, mental processes, and emotional states is essential for a deeper understanding of them, as is discussed below:

- a. *Cognitive ability*: This approach emphasises on thoughts and other mental processes focusing on how the brain processes information, how it uses its faculties of perception, memory, thought, judgment, and decision-making to do so, and how it creates coherent patterns of behaviour.³ Understanding cognitive process is important primarily in avoiding or overcoming the urge to react violently. Killing of such kind is usually preceded by numerous cognitive processes such as depersonalisation of victims and having a perception that violence against others is an acceptable behaviour. Some of the serial killers are so focussed on their violent fantasies that when the reality doesn't match, they commit more of similar acts to achieve it.
- b. *Emotional functioning*: The emotional functioning of serial killers is different from normal individuals as the heinous acts committed by them are mostly the result of growing frustration, rage, rejection or helplessness. Thus, this mixture of basic impulses leads to the act of serial killing. The result being that serial killers develop indifference towards the gruesome act committed by them and the anguish perpetrated on innocent victims as a result of continuous exposure to fantasies of extreme brutality.⁴
- c. *Behavioural Pattern*: The conduct of a serial killer might be considered to be psychopathic. They have a desire to release extreme tension through physical enactment of violence which prevents psychotic retreat.⁵ They get an immense pleasure from their ability to kill people without being detected.⁶ With the desire to achieve the same pleasure they received from committing first murder, they often end up committing successive similar crimes and ends up becoming a compulsive behaviour.

Various serial killers are often described as psychopaths. A psychopath is defined as someone who has a clear awareness of reality but lacks sentiments of regret and conducts crimes for instant enjoyment without consideration for the

³ Alessandro Angrilli et al., *Cognitive, Emotional and Social Markers of Serial Murdering*, 27 J. Clin. Neuropsychol. 490 (2013), <https://pubmed.ncbi.nlm.nih.gov/23414440/> (accessed on 5 July, 2024).

⁴ *Id.*

⁵ Ilie Magdalena Ioana, *No one is born a Serial Killer!*, 81 Procedia Soc. Behav. Sci. 325 (2013), <https://www.sciencedirect.com/science/article/pii/S1877042813015036> (accessed 10 July, 2024).

⁶ *Id.*

suffering caused by the illegal behaviour.⁷ They often lack conscience. But that is not the case with every serial killer as some of them also have the ability to regret the acts committed and suffer significant guilt.

3. NATURE v. NURTURE DEBACLE

Nature v. nurture dispute has arisen since ages i.e., whether a person is born criminal due to one's genetic traits or with time one acquires the personality due to the kind of environment one faces leads to the commission of crime.

According to the nature theory, behavioural qualities are intrinsic and existent in human nature. According to scientists, damage to the frontal lobe, hypothalamus, and limbic system may result in excessive rage, lack of control, judgment impairment, and abuse⁸, as the frontal lobe is responsible for social relations, moral compass and damage to it might lead to lack of empathy in an individual which can be often noticed in serial killers.

An example can be taken of David Berkowitz, a serial killer who was nurtured in caring and supportive environment provided by his adopted parents. He often stated that the demons inside his brain would not leave him alone and in order to get rid of them he committed murders.

Also, even certain chemical imbalances lead to aggressive behavior. Monoamine Oxidase A (MAO-A for brevity) is a gene which is often linked with antisocial behavior. Mistreated children who had such genes which resulted in greater levels of MAO-A were less prone to develop anti-social conduct and violent behavior.⁹

XYY syndrome is also associated with serial killers who have an extra X chromosome; which is also known as Klinefelter's disease. Reference can be made to Bobby Joe Long, a serial killer who had excessive levels of oestrogen, a feminine hormone due to which he had breasts in his adolescence leading to shame and resentment.¹⁰

⁷ Vito Zepinic, *Psychopathy in Serial Killers and Political Crime*, 9(6) J. Psychol. 1262 (2018), <https://www.scirp.org/journal/paperinformation?paperid=85451> (accessed on 11 July, 2024).

⁸ Poorvaja Jagadeesan et.al., *Nature versus Nurture: Are Criminals Born or Raised- A Comprehensive Analysis*, 2 IJRPR 564 (2021), <https://ijrpr.com/uploads/V2ISSUE10/IJRPR1550.pdf> (accessed on 25 July, 2024).

⁹ John Hegger, *Nature vs. Nurture: What causes crime?*, LEXIPOL (Sept. 06, 2024, 11:58 AM), <https://www.corrections1.com/probation-and-parole/articles/nature-vs-nurture-which-causes-crime-u7qC7V8v1F69l0Y7/> (accessed on 25 July, 2024).

¹⁰ Anusha Subramanian, *Born to Kill? The Story of Serial Killer Genes*, BSJ (July 21, 2020), <https://bsj.studentorg.berkeley.edu/born-to-kill-the-story-of-serial-killer-genes/> (accessed on 27 July, 2024).

While nurture theory has a different view; it focuses on an individual's ability to regulate external effects during socialization. The way a child is brought up, his environment around him, the way his parents treated him often causes a psychological injury and development with different expectations and values from rest of the society.¹¹

An example can be taken of Henry Lee Lucas who lost an eye at the age of 10; the result being that he would often draw attention towards himself by engaging in bizarre activities. Even his mother, who was a prostitute, would make him cross-dress to draw attention of customers and often compelled him to watch her with her clients. The result being that Lucas molested his victims before murdering them without any moral conscience and accepted that this was a normal behavior.

Individuals who are abused emotionally or physically or sexually have more tendencies to behave violently¹² as when they are young they feel humiliated and defenseless and grow up with an urge to overpower and dominate others; which they often achieve by molesting and murdering vulnerable victims.

Even the social learning theory can be related with nurture aspect whereby an individual's behavior is strongly related to their previous experiences and interactions with individuals around them. Certain qualities are acquired via training or through rewards and punishment¹³. Often certain violent behaviors are picked by children seeing their abusive parents or through movies or video games and often inculcate the behavior by imitating.

It can be said that individuals to some extent are influenced by both nature and nurture leading to the development of personality that could commit such gruesome crimes without any remorse. As there are numerous serial killers who were mistreated in their adolescence which led them to develop a personality whereby they cause harm to others as a form of punishment. They prey on vulnerable victims like children, young women, prostitutes and teens primarily on the basis of the life the victims are living or merely on the basis of gender etc.

4. PLEA OF PSYCHOLOGY

Crime has been studied by writers and academics from anthropological, economical, legal, medicinal, philosophical, psychological, and sociological

¹¹ HEGGER, *supra* note 9.

¹² Mairi Levitt, *Perceptions of nature, nurture and behaviour*, 9 Life Sci. Soc. Policy (2013), <https://lssjournal.biomedcentral.com/articles/10.1186/2195-7819-9-13> (accessed on 10 August, 2024).

¹³ Saul McLeod, *Albert Bandura's Social Learning Theory*, SIMPLY PSYCHOLOGY (Feb. 1, 2024), <https://www.simplypsychology.org/bandura.html> (accessed on 11 August, 2024).

stand point. With time the study on crime became more refined and developed into criminological specialization whereby emphasis was laid on the cause of crime or the theories and explanations which led to the phenomena of crime.

Researchers have often associated crime with mental disorder and are often of the view that clinical treatment can be considered as a remedy to crime. But not much stress is laid on medical insanity faced by the culprit rather legal insanity is considered to be the qualifying criteria for such clinical treatment, whereby the individual is not able to form a rational judgment and understand the questions posed before him. But in medical insanity even though the individual understands his actions but there is lack of feeling of remorse or moral compass; which cannot be considered to be normal behavior to be treated at par with normal individuals.

There are various criminals who often suffer from mental diseases that usually go unnoticed because they are never checked by skilled psychiatrist. Such medically insane culprits are often incarcerated in prisons without affording an opportunity to recover from such mental abnormality for the sole reason of not coming within the definition of legal insanity. Such patients and their abnormality are not emphasized upon in India in comparison to other nations like U.S. and U.K..

4.1 MEDICAL INSANITY v. LEGAL INSANITY

The plea of psychological defect as advanced in the paper primarily rests on the distinction which is long recognised in the criminal jurisprudence, i.e., between medical insanity and legal insanity. The terms are often used interchangeably but they are fundamentally different, and the gap between them is the place where the psychology of a serial killer fall.

Medical insanity is a clinical concept, referring to any medically diagnosed mental disorder, ranging from psychosis and schizophrenia to personality disorders irrespective of whether the medical condition affects an individual's understanding of their own conduct.¹⁴ In contrast, the legal insanity, is a narrow test based on cognition created for a specific purpose i.e., to determine whether an accused could be excused from criminal liability or not. In India, legal insanity is codified under the then s.84 of the Indian Penal Code, 1860 and present s.22 of the Bharatiya Nyaya Sanhita, 2023, wherein the criminal liability is exempted owing to the unsoundness of mind, which made the individual incapable of knowing the nature or if its wrong or contrary to law at

¹⁴ Suresh Bada Math et al., *Insanity Defence: Past, Present, and Future*, 4 Indian J Psychol Med. (2015), <https://pmc.ncbi.nlm.nih.gov/articles/PMC4676201/> (accessed on 24 June 2026).

the time of commission of criminal act.¹⁵ The statutory jurisprudence of the provision could be traced back to the M’Naghten Rules¹⁶ as formulated by the English Courts in 1843, wherein the defence of insanity was limited to those who did not know the nature and quality of the act or that it was wrong.

Even the Indian judiciary has dived into the distinction between the two. In *Hari Singh Gond v. State of Madhya Pradesh*¹⁷, it was clarified that s.84 IPC lays down the legal test of liability, and since the Code does not define “unsoundness of mind” nor “insanity”, and are often used interchangeably;¹⁸ the Court must be cautious in treating every degree of mental disorder as sufficient enough to attract the exemption. It was further reiterated in *Surendra Mishra v. State of Jharkhand*¹⁹, that for an accused to claim the exemption of legal insanity, he must prove legal insanity and not medical insanity i.e., mere abnormality of mind, partial delusion, or irresistible impulse, or psychopathy, are not sufficient enough to prove legal insanity.

The distinction also operates as a filter wherein even if an individual is mentally disturbed as per the clinical standards but still, he is liable under law, because the test of legal insanity demands absence of specific cognitive capacity, i.e., incapability of knowing the nature of the act or wrongfulness at the time of commission of act, as observed in *Dayabhai Chhaganbhai Thakker v. State of Gujarat*²⁰. Thus, even if an individual is clinically insane but understands the nature of offence then he will be liable for the commission of act. A further burden of proof is mentioned under s.105 of the Indian Evidence Act, 1872 or present s.108 Bharatiya Sakshya Adhiniya, 2023²¹, which the psychopathic offenders rarely are able to prove for they retain full awareness of the commission of their act.

The doctrinal gap mentioned herein is the centre of the present study. Serial killers or psychopaths have knowledge and understanding of the act that they are committing that it is wrong and illegal, their cognitive activity is intact, thereby failing to fulfil the legal insanity test and become fully responsible for their act. But as per the clinical standards they are not normal individuals due to absence of certain emotions such as remorse, empathy etc., warranting psychiatric attention. Such offenders even though are legally sane but medically

¹⁵ Khushboo Jha & Md. Saadan Anjum, *Insanity and its Variation*, 6 IJLSI (2024), <https://ijlsi.com/wp-content/uploads/Insanity-and-its-Variation.pdf> (accessed on 24 June, 2026).

¹⁶ (1843) 8 E.R. 718 (U.K.).

¹⁷ AIR 2009 SC 31 (India).

¹⁸ *Id.*

¹⁹ AIR 2011 SC 627 (India).

²⁰ AIR 1964 SC 1563 (India).

²¹ The provision states that when an accused claims an exemption or special defence then the burden of proving the claim is on him.

insane, and the present binary result of punishment or acquittal is inadequate for them, thereby proposing a third response for such criminals i.e., plea of psychological defect.

4.2 WHO IS A PSYCHOPATH?

There is a lot of ambiguity in mental disorders; they are all commonly recognised as the same. A psychopath is an individual who exhibit certain traits such as lack of conscience or empathy or fear or inhibition.²² But that does not mean that every individual who showcases such behavior commits such heinous crimes in future as few face a behavior shift while growing up with the help of some intervention.²³ But psychopathic tendency does not impair the cognitive comprehension to the extent to become incompetent to stand trial. Their primary objective behind committing a crime is to make other individuals suffer without any reason.

The law enforcement agencies must have adequate knowledge about such mental illness, law pertaining to it and the resources available for the care and treatment of such mentally disturbed individuals. If the Judge gives adequate attention to the issue then he can provide with reasonable and humanitarian conclusion which can even work towards reformation and rehabilitation and not mere incarceration.

Here reference can be made to Nithari case²⁴, whereby the accused caused deaths of numerous children and ate their flesh. The prime accused in the case showed signs of psychopathic behavior and was first diagnosed as psychopath but ultimately he was sentenced to death.

4.2 LAW OF U.S. AND U.K.

In United Kingdom, serial killers get severe punishments as per the Criminal Justice Act, 2003 and accordingly they get mandatory life imprisonment for each murder with or without parole depending upon the kind of murders committed. But reference is also made to Mental Health Act, 1983, if the serial killer is found to have a mental disorder. Accordingly the offender is sent to secure hospital but it is not for eternity, as, if the culprit gets better to be fit to

²² Cary Federman et al., *Deconstructing the Psychopath: A Critical Discursive Analysis*, 72 JSTOR 36 (2009), <https://www.jstor.org/stable/25619824> (accessed on 21 August, 2024).

²³ Greg Miller, *Investigating the Psychopathic Mind*, 321 AAAS 1284 (2008), https://www.jstor.org/stable/20144724?searchText=psychopath&searchUri=%2Faction%2FdoBasicSearch%3FQuery%3Dpsychopath&ab_segments=0%2Fbasic_search_gsv2%2Fcontrol&refreqid=fastly-default%3A5d9b668178336b5f3d7602f3b20ad03b (accessed on 22 August, 2024).

²⁴ Moninder Singh Pandher v. Surendra Koli, (2009) 67 ACC 185 (India).

be in prison then he is transferred to prison. Thus, the provisions of UK are such that they totally remove such culprits from society by limiting them to life imprisonment or detained in secure hospital.

But criminal liability in U.K. is based on whether at the time of offence the culprit was able to understand his behavior or not. Psychopaths are considered responsible for their behavior as they understand their acts without feeling remorse. If the psychopathic condition is such that it can be treated then he maybe detained in secure hospital. In case of psychopaths, the Courts usually rely on assessment of the psychiatrists that whether they could be rehabilitated or not.

While in U.S. there is difference in legal provisions due to different laws in state and federal which often affects the kind of punishment given to the serial killers. But the punishment given to such heinous crimes is often similar involving death penalty or life imprisonment without parole as per Violent Crime Control and Law Enforcement Act, 1994. Ted Bundy, John Wayne Gacy etc. were given death penalty for the serial killings they committed. But the states which have abolished death penalty often provide with life imprisonment without parole.

If the offence is committed under the influence of severe mental illness then the culprit is sent to psychiatric facility which is often for lifetime but released if reformed and no longer a danger to society. The law governing the same is Insanity Defense Reform Act, 1984.

4.3 LEGAL LACUNA IN INDIA

In the Indian criminal justice system, a criminal who is a psychopath is either punished with life imprisonment or death penalty or acquitted on the basis of legal insanity as per s.84 of Indian Penal Code or s.22 of Bharatiya Nyaya Sanhita, 2023. Due to lack of understanding of mental illness by law enforcement agencies, it can often lead to inappropriate judgments.

There is no specific legislation in India to deal with psychopathic serial killers i.e., the individuals who lack emotions, conscience and remorse after committing gruesome killings of which they fully understand the consequences and that what they are committing is against the law or is wrong. They are the victims of their own mind. At present, even though their mental state is considered while sentencing and during trial but they are sent to prisons. If only the mental illness is severe to such an extent that they are unable to understand the nature of their actions then only a mental healthcare institution is considered appropriate for them. Thus, the Indian Criminal Justice system should seek the assistance of psychologists and adopt unique norms of practice to reform and rehabilitate them.

In the case of psychopaths since they are not able to experience their emotions in the same sense as the rest of the society so incarceration cannot be considered to be an adequate solution rather a proper medical diagnosis along with clinical treatment would rather be a step towards reformation and rehabilitation of a criminal.

Psychopathy can be considered to be one of the most serious mental illnesses and individuals with such tendencies are extremely dangerous who commit gruesome crimes. They ought to be appropriately treated and for the same, death penalty and life imprisonment are not the only solutions available. Since, even though they are aware of their actions to be against the law but they are unaware of the underlying cause behind it.²⁵ So the crime they commit is out of their sickness and not guilty mentality. The result being that they start embracing their gruesome actions and try to commit it again. Psychopathic behavior is one of the most serious mental illnesses and it should not be overlooked.

4.4 PSYCHOPATHS AND JUDICIAL RESPONSE

Various gruesome crimes have been documented in India but none of the killers have been linked with psychopathy but they did show psychopathic traits. Here reference can be made to an infamous serial killer Raman Raghav who committed crimes in 1960s. After he was apprehended it was discovered that he had schizophrenia; thereby leading to reduction in his sentence to life imprisonment.²⁶

While in the international perspective, reference can be made to the case of Ted Bundy who abducted, raped and killed more than 30 women between 1974 and 1978.²⁷ He lacked empathy. He was driven to kill by compulsive homicidal fantasies and he felt obliged to do it repeatedly to fulfill his dreadful urges.²⁸ Later he was executed by electric chair. He had anti-social personality disorder which was the result of his environment and inherited factors such as lack of MAOA gene causing breakdown of dopamine and also had guilt of being illegitimate child with being addicted to pornography, family abuse etc.

²⁵ Nishant Goel, *I am not being executed but murdered: Surinder Koli*, INDIALEGAL (Nov. 19, 2014), <https://indialegallive.com/commercial-news/crime-news/executed-murdered-surinder-koli/> (accessed on 23 August, 2024).

²⁶ State of Maharashtra v. Sindhi, AIR 1975 SC 1665 (India).

²⁷ Aquamsha Fahim, *The Making of a Criminal: Case Study of Ted Bundy* 16 IJCRT 2320 (2022), <https://www.ijcrt.org/papers/IJCRT22A6294.pdf> (accessed on 23 August, 2024).

²⁸ Jareena Babu, *The Abominable Killer: An Introspection of the Bundy Murders; The Bundy Murders: A Comprehensive History*, 5 IJELS 2212 (2020), https://ijels.com/upload_document/issue_files/57IJELS-111202014-TheAbominable.pdf (accessed on 25 August, 2024).

In the case of John Wayne Gacy, he had corpses of 33 young boys and men in his house. During his childhood, his father was cruel to him and always dissatisfied with his overweight and being a weak kid. He often indulged in sexual activities with bodies of his victims. He had sexual aggressiveness as a result of his early psychological trauma, sexual identity suppression and breakdown of social controls. He was abused by his father and assaulted by a family friend during his childhood. He also suffered from schizophrenia, multiple personality disorder and anti-social behavior.

Jeffrey Dahmer grew up in a depressed environment. He had hernia when was 4 years of age and due to the procedures to cure it caused a shift in his personality. Also, he was neglected during his childhood. Later in his life, he slaughtered 17 young boys and killed his victims by strangling them and afterwards violated their dead bodies. He had splanchnophilia and accordingly he used to eat his victims' heart so that he would be able to keep them forever.²⁹ If he had received proper therapy at a young age then he might have not become a serial killer.

Most of the cases as mentioned above did not delve upon the mental illness of the culprits even though displayed the symptoms of psychopathy. A firm knowledge should be instilled in our system, particularly for psychopathy, which remains a neglected topic in our judicial system. The way the psychology of such psychopaths work is different from normal individuals. There is a lack of reasoning behind committing such gruesome crimes.

Serial killers maybe psychopaths but not all serial killers are psychopaths.³⁰ In the case of psychopaths the cause of crime is attached to a disease whereby they are unable to understand why they commit such killings. Such behavior can be the result of the environment one was raised in or inherent issue due to which they are unable to feel remorse for the gruesome crimes committed. Psychopaths absorb punishments and reward differently than the rest of the population.³¹ A research found that psychopaths vary not just in terms of brain functions, but also in terms of brain shape and even when they were asked to do basic activities, their MRI data revealed huge disparities.³²

²⁹ Nikki Main, *Sane or Insane? What mental illness was Jeffrey Dahmer diagnosed with?*, THE U.S. SUN (Oct.13, 2022, 5:39 PM), <https://www.the-sun.com/news/6437557/jeffrey-dahmer-diagnosed-with-mental-illness/> (accessed on 26 August, 2024).

³⁰ Adam R. Fox, et al., *Psychopathy and Culpability: How responsible is the psychopath for criminal wrongdoing?*, 38 LSI 1 (2013), <https://www.jstor.org/stable/23357736> (accessed on 26 August, 2024).

³¹ Grant T Harris, *The Construct of Psychopathy*, 28 J. Crim. Justice 197 (2001), <https://www.jstor.org/stable/1147675> (accessed on 28 August, 2024).

³² Sarah Gregory, *Punishment and Psychopathy: A Case-Control Functional MRI Investigation of Reinforcement Learning in Violent Antisocial Personality Disordered Men*,

Psychopaths generally accept their crimes without any feeling of remorse and Courts thereby considers them to be awful offenders with no emotion. Thus, the law enforcement agencies must work by taking into account the psychopathic traits as shown by the culprits and give appropriate punishments by taking into consideration the philosophy of reformation and rehabilitation.

While in the case of U.S.A. and U.K. the mental illnesses are clearly defined with distinction between sexual criminals, violent criminals, rapists, sociopaths and psychopaths etc. The result being that the punishments and treatments are given by taking into consideration mental illness, if any, faced by the culprit. There is a need to approach similarly in India without blindly following incarceration as the only form of punishment for heinous crimes, rather if there is a scope of reformation of such person then mental care institution can be an alternative.

4.5 REHABILITATION OF SERIAL KILLERS

The act of serial killing done by such murderers is not a normal phenomenon as it is not possible for normal human beings to act in such cold hearted manner time and again. The question arises that whether are actually insane? Also, is there any possibility for reformation and rehabilitation of serial killers?

It is often assumed that individuals who commit such gruesome murders are out of their mind but not much effort is made to study the mental disability faced by such individual that led him to commit such bizarre crime.

Such serial killers often face anti-social personality disorder. While their individual history has often instances of abuse and mistreatment in childhood which at times contributes to development of psychological disorders such as hostility towards oneself and others. The act of killing allows them to assert power over their victims thereby creating for themselves a feeling of confidence.

The issue with such killers arises whether the acts were committed due to some mental disorder which can be rehabilitated or whether the culprit is a pure evil who needs to be incarcerated and be given death penalty.

Our Indian legal system is based on the premise that individuals are essentially reasonable and logical with an assumption that incarceration of culprit can not only prevent crime but also rehabilitate criminals. Even though it is not in the best interests of the society to let a serial killer roam around freely but it is also important to understand their mental issues in order to treat them as they are the victims of their past.

2 The Lancet (2015), <https://pubmed.ncbi.nlm.nih.gov/26359751/> (accessed on 29 August, 2024).

These serial killers constantly struggle with the traumas they suffered during their childhood or much worse where they are the victims of their own mind due to some disorder which does not allow them to feel emotions. Thus, resulting in becoming cold blooded murderers. Such issues still remain with them even though they stop committing crimes and the act of incarceration and the concept of reward and punishment is immaterial to them as they cannot feel remorse or empathy or any such emotions. Thus, incarceration hardly becomes the best solution for such individuals.

Reference can be made to the case of *Shatrughan Chauhan v. Union of India*³³, whereby the Hon'ble Supreme Court observed that sentencing policy must include a policy of rectification. Also, in the case of *Bachan Singh v. State of Punjab*³⁴, while upholding the constitutional validity of death penalty, the Hon'ble Supreme Court observed that even though death penalty is to be given in rarest of rare cases but aggravating and mitigating factors are to be considered.

With time even the Supreme Court sought alternative to death penalty as it was of the opinion that the rarest of the rare case doctrine became more judge centric. In *Swamy Shraddanand*³⁵, the Court emphasized on examining alternative options before granting of death penalty. One such alternative being awarding, life imprisonment without remission or awarding life imprisonment for a fixed term without remission.

Individualization of punishment should be inculcated in our criminal justice system, as was advocated in 47th report of Law Commission of Indian. It can be inferred that death penalty cannot be the sole solution to such serial killers who commit such horrendous acts without the ability to feel any remorse or guilt. If there a chance of reforming such culprit with psychiatric help then they must be given an opportunity. Even though the gruesome crimes committed can be considered to be the aggravating factor but mental disorder can be considered as a mitigating factor favoring for such criminals to take plea of psychological defect whereby they get psychological treatment rather than mere incarceration or death penalty.

While imposing a punishment the concept of rehabilitation and humanization must be considered. Reference can be made to the cases of Berkowitz and Jeffrey Dahmer whereby they transformed while undergoing imprisonment. But it can be iterated that such transformation can be achieved at a faster pace if provided with adequate medical help as per the medical insanity faced by the culprit. It cannot be asserted that all serial killers would reform but

³³ (2014) 3 SCC 1 (India).

³⁴ (1980) 2 SCC 684 (India).

³⁵ (2008) 13 SCC 767 (India).

there is a possibility for some of them to reform and reintegrate in society. To achieve the same, the criminal justice system should work with psychiatric professionals.

5. CONCLUSION AND SUGGESTIONS

Incarceration of all types of illegal or deviant behavior serves no benefit. Crime can be controlled in a better way by understanding the motivations behind the commission of crime and the psychological factors influencing the cognitive ability of the offender. Studying the nature of mental diseases prevalent amongst the accused can create a better understanding of the liability and enable punishment which balance justice with the possibility of reformation.

Psychopathy remains an emphasized subject in Indian criminal justice system. It deserves greater attention, particularly in cases of serial killers. Such offenders often commit crimes with full awareness that their actions are unlawful, yet there is lack of remorse. Their behavior stems from psychological illness, while often themselves being unaware of its existence. They may appear fit for trial, but are medically unsound. The research paper, thus, advocates for a therapeutic approach rather than purely punitive.

To address this issue, several measures are recommended such as developing a comprehensive training program for police officers to familiarize them with the psychological aspects of criminal behavior, criminality and mental illness. Awareness initiatives could be taken for advocates and Judges to ensure an informed decision making in cases involving psychological disorders. Furthermore, dedicated facilities could be established such as separate asylums or specialized wards, for treatment and rehabilitation of psychopath offenders.

While the crime committed by psychopaths are often heinous in nature, awarding them severe punishment without taking into consideration the underlying mental disorder, neither benefits the society nor the offender. Such offenders if placed in a mental institution, wherein appropriate treatment is provided, would offer a path for reformation. Hence, the plea of psychological defect should be recognized, allowing such offenders to be diverted from prisons to therapeutic institutions.

Also, a common thread amongst the serial killers is a troubled childhood marked by neglect and isolation. More research is needed into their early and later childhood experience, so that children who ensure similar trauma be closely observed and provided timely with psychological support to prevent the development of violent tendencies in adulthood.

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