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Robust Criminal Profiling: Need of the hour in Criminal Justice of India

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Laws are important for regulating and maintaining the balance in society, however, the effectiveness of a law is predominant, and I do not think bulky pages will make a difference, however, the lack of implementation of laws is a true picture of the National Criminal Justice System. These lines explicitly press the triggering issue of crippled Criminal Justice of India. The following paper aims to introduce, adopt and enforce Criminal Profiling in the Criminal Justice System of India. Crime rates are proliferating in India, the pendency of criminal cases across the courts, lack of coordination between the Legislature, Executive, and Judiciary. These factors are responsible for the miscarriage of criminal justice in India. This paper aims to take up this issue at national interest to robust Criminal Profiling, the establishment of research centers, proper rules should be passed by the parliament, and incorporation of Criminal Profiling in the criminal justice system as an integral part. The following paper has discussed the history, findings, methods, approaches, and techniques in other countries and brought forth the issues of Indian Criminal Justice to reform our criminal justice system, improve infrastructure, and equip the law enforcement agencies with innovative technology to make the Criminal Profiling an effective key tool for Criminal Justice of India.

Keywords: *criminal profiling, criminal justice, law, parliament, and crime.*

INTRODUCTION

Criminal Profiling is always looked down on for many reasons, however, regardless of flaws, still, Criminal Profiling is effective in criminal investigation and many research works agreed on this point that Criminal Profiling is more like a "*preventive principle*," because criminal profiling branches are dealing with various arena through their investigation for instance- Victimology, Penology, Psychiatrist, and Forensic psychologist. These branches make this process smoother and effective. Indian Criminal Justice system needs such a robust mechanism to make criminal justice expeditious. India is still reliant on the traditional method of criminal investigation and this is important that police officers are trained enough to understand the intricacies of Criminology. Indian criminal justice is lingering sometimes it becomes crippled too. The foremost question arises whether this criminal profiling is effective or is it seminal for criminal justice? The answer is quite simple and vivid everything has a double-edge-sword, instead of finding flaws to prove that Criminal Profiling is not an efficient method for Indian criminal justice, we need to cull out the advantages or benefits of using this method in the Indian Criminal Justice, it's all about approach, and how we perceive & acknowledge the problem. This research paper objective is to weigh the possible variable of Criminal Profiling, and robust the Criminal Profiling method in India which ultimately puts an impact on the Indian Criminal Justice system and it's never too late to start, we need researchers, criminologists, and psychiatrists to revamp the criminal profiling to reform our criminal justice system and without a doubt, the crime rate is escalating with the passing of each year, it's a wake-up call for the legislature, Executive, and judiciary to consider this issue and take better steps ahead for Indian Criminal Justice.

HISTORY OF CRIMINAL PROFILING

The history of Criminal Profiling is fascinating in the criminal justice system and the origin of Criminal Profiling is traced to the early 1800s; however, as per history Italian criminologist, Cesaro Lombroso in 1876 published his research work titled the research paper as "L Uomo Delinquente" translated in English as "**The Criminal Mind**" in this research paper he drew

This contention that there are some innate indicators present while human being born or more precisely he believed in the notion of "*born criminal*," he argued in his research paper that there are some facial characteristics which reflect the demeanor of man. Lombroso's theory of criminal profiling was influenced by the ideas of "*Darwin's theory of evolution*," and he classified the criminal in six categories such as habitual criminal, insane criminal, criminal by passion, born criminal, criminaloid, and occasional criminal. In his research paper, he mentioned the experiment he had done while researching in this arena of criminal profiling, he gauge the criminals' heads with apes and ancient Homo sapiens and concluded with his theory that criminals were savage and victims of atavistic. Apart from his rest theory, he contended that criminality is innate and we should give them humane treatment and follow the rehabilitation theory rather than giving them capital punishment. Another contribution was given by John E. Douglas referred to as "*modern criminal profiler*"³ and Robert Ressler his partner they tandemly worked as an FBI agent and their approach towards this method of Criminal Profiling they chiefly took interviews of all convicted criminals consisting of serial killers and psychopaths.

The rationale behind taking interviews of them is to understand the intent, the motive of criminals and it will give the broad perspective to ruminate the information by grilling down the stem from the fact along with that they were created the synchronized data of criminals on the system which help them to trace and find out the criminals across the state which help the law enforcement agency to trace them swiftly. Although Douglas was not the first person, however, his contribution in criminal profiling was innovative in terms of tech-savvy, they also worked on the establishment of (VICAP)⁴Violent Criminal Apprehension Program which

¹ Norbert Ebisike, 'The Use of Offender Profiling Evidence in Criminal Cases' (*Golden Gate University School of Law* 11 February 2007) <<https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1023&context=theses>> accessed 22 December 2021

²*Ibid*

³ 'The History and Purpose behind Criminal Profiling' (*Criminal Justice Programs*, 04 May 2021) <<https://www.criminaljusticeprograms.com/articles/the-history-of-criminal-profiling/>> accessed 22 December 2021

⁴*Ibid*

modified and linked with another branch of (NGAVC)⁵ National Center for the Analysis of Violent Crime. This agency's main work is to follow the preventive principle based on their database. Douglas was referred to as a "*serial criminal whisperer*".⁶ The first Criminal Profiling case of the modern era was the analysis of Dr. Thomas Bond on the "*Jack Ripper serial killer case*"⁷ and unravel the fascinating esoteric facts of this case according to him he made his analysis based on the victim autopsy (Mark Kelly) and he explains that he was lacking in scientific and behavioral knowledge of a surgeon or butcher, he also reconstructed the crime scene to understand the "*behavioral pattern*"⁸ of the offender who murdered the victim. After extrapolating he came up with his profile where he mentioned the physical characteristics of the murder, he mentioned that he was strong physically, quiet in nature, had harmless facial features, poised, venture, solitude, and didn't have any employment still this case was unresolved. The most thrilled case of Adolf Hitler, German Chancellor whose profile was made by Dr. Walter C. Langer, who developed the Adolf Hitler profile through his interviews, Hitler's books, speeches and read all the components and came to deduce that Adolf Hitler was prudish, traditional, and rigor. Furthermore, he was healthy physically, however, dwindling mentally, he also noted the fact that he often proves his masculinity to his mother, and the major finding was he would like to commit suicide because he was unable to accept his defeat.

MEANING OF CRIMINAL PROFILING

⁵ *Ibid*

⁶ *Ibid*

⁷ 'The History of Criminal Profiling' (*Indiantiger*) <<https://indiantiger.org/the-history-of-criminal-profiling/>> accessed 22 December 2021

⁸ *Ibid*

Criminal Profiling's generic meaning is profiling of criminals who committed the crimes through behavioral and investigation tools, which help them to assess their criminal mind and research and examine their intent and motive to help police officials and investigators to reach their destination. Criminal Profiling is chiefly based on experience, prediction, and humane knowledge in the field of criminology.⁹ Criminal Profiling makes the investigation process feasible with the help of the "*psychological evaluation*."¹⁰ Furthermore, criminal profilers always use their intellect to make an accurate prediction with the help of reconstruction of the crime scene, interviews and using physical and psychological evidence, etc. The term Criminal Profiling is commonly known as "*investigative criminal profiling*,"¹¹ these methods are used to target the criminals who commit the crimes such as serial murder, rape, homicide only. The role of Criminal Profiling is an appraisal of patterns, reading the mind, tracing the records, understanding the nature of crime and demeanor of criminals. However, Criminal Profiling cannot use in each case this method can be used only in violent crimes. Criminal Profiling is not a specific name for this method there are umpteen of other names also such as offender profiling, behavioral profiling, psychological profiling, and criminological profiling.

CLASSIFICATION OF CRIMINAL PROFILING

There are three approaches or classifications of Criminal Profiling categorically divided into the three different heads- "*Diagnostic Evaluation or clinical approach*,"¹² "*Investigative Psychology or Environmental Psychology approach*," and "*Criminal Investigative Analysis or the FBI approach*," and "*Diagnostic Evaluation or clinical approach*" is referred to as the oldest approach of criminal profiling.¹³

However, in the present time scholars coined the other four approaches, which are widely in use such as-

⁹ Prof. (Dr.) Priya Sepaha, 'Criminal Profiling of Psychopaths: The Indian Scenario' (*Academia*) <https://scholar.google.com/citations?view_op=view_citation&hl=en&user=cVnKi6cAAAAJ&alert_preview_to_p_rm=2&citation_for_view=cVnKi6cAAAAJ:Y0pCki6q_DkC> accessed 22 December 2021

¹⁰ *Ibid*

¹¹ *Ibid*

¹² Norbert Ebisike (n 1)

¹³ *Ibid*

- **Geographical Approach**¹⁴- This approach chiefly deals with the demographic factors which give the information of offender residence, place of the crime scene, and office area which sets the link and connects the dots crime through places and examination of crime scene about the offense.
- **Clinical Approach**¹⁵- This approach works in the area of the mind of the offender and examination of his mental state, more precisely this approach targets the mind, and the defects are related to the mental disorder of dementia or insanity. In this approach, the psychiatrist played a key role in examining the mind of the offender.
- **Investigative psychology**¹⁶- This approach is followed by the law officials after the completion of these two approaches stated above subsequently they start working on Criminal Profiling with their intellect or by predicting the relevant facts, which occurred through investigation.
- **Typological Approach**¹⁷- This approach purely works on the crime scene and collection of the physical evidence in furtherance to understand the criminal intent of the offender or categorize them into groups to figure out the type of offender or his characteristics.

TECHNIQUE & STAGES USE IN CRIMINAL PROFILING

The criminal Profiling technique is categorized into two categories these two techniques are the most preferred techniques used by the criminal profilers and investigators, they are-

1. First technique is the "*Top-Down Approach*,"¹⁸ this technique is commonly used in America and this approach is inclined on the behavioral aspect. Some pointers are important to this technique to give a better layout of the technique, they are:

¹⁴ 'Criminal Profiling A psychological Analysis of a Criminal's Mind' (*Incognito Forensic Foundation*) <<https://ifflab.org/criminal-profiling-insight-criminals-mind/>> accessed 23 December 2021

¹⁵ *Ibid*

¹⁶ *Ibid*

¹⁷ *Ibid*

¹⁸ *Ibid*

- **Data compilation-** This technique is used at the first stage of data collection through various sources such as physical evidence, photos of crime scenes, or interviews.
- **Offender's classification-** This approach determines the classification of the offender, which is divided into two categories-, *organized offender* and *disorganized offender*. And some characteristics help them to decide which category of offender committed the crime. Organized offenders are those who have a better IQ, are sexually capable, employed, being calm & posed during the commission of a crime. On the other hand, disorganized offenders have average IQ levels, are not stable at work, are abused, sexually incompetent, frenzied, or anxious while committing the crime.
- **Crime reconstruction-** The most predominant variable of the technique to reconstruct to understand the behavioral approach of the criminal and victim and assessment of crimes sequencing by the offender.
- **Profile Generation-** Finally after weighing all the variables they come to the deduce of sketching the offender.

2. The second technique is the "*Bottom-Up Approach*"¹⁹ prevalent in Britain and this approach championed by "David Canter," and this approach is based on psychological theories, this approach is scientific and rational and the distinction between these two techniques is the first technique is based on the assumptions, on the other hand, this approach is based on the scientific approach. Furthermore, this approach has two aspects of consistency, which are defined scientifically; the first is "*Interpersonal Consistency*"²⁰ which examines the interaction between the offender and the victim in terms of each offender choosing their victim, physical characteristics, the behavior of victim and offender, a prior meeting between them or stranger.

¹⁹ *Ibid*

²⁰ *Ibid*

And the second aspect is "*Spatial Consistency*"²¹ this aspect deals with the geographical area where the crime was committed but the approach of this aspect is different they search for the possible locations where criminals often choose a specific area for crime, connect the dots of crime with date, day, place, the weapon they choose. Stages of criminal profiling are not defined or codified to follow these steps, however, it is the advisable or most preferred method to use it for effective results, they are –

- Evaluating the crime or offense committed by the offender.
- Holistic appraisal of the crime scene where the crime has occurred.
- Exhaustive analysis of the victim.
- Examination of preliminary investigation of police reports.
- Examination of the process of an autopsy conducted by the medical examiner.
- Regularly evaluate the developments that occurred in criminal profiling of the offender.
- Prediction and presumptions based on the present evidence about the offender characteristics critically.
- The final step to finding out the suspect.

²¹ *Ibid*

In addition, there are some other steps to be considered such as crime scene staging, the signature of the offender, Modus Operandi, and intent or motive behind the commission of a crime. Furthermore, there are some methods used in Criminal Profiling, however, SARA²² is the preferred method used widely which referred the four methods, they are- Scanning, Analysis, Response, and Assessment. And there are some other methods also like Problem, cause, Tactic, Output, and Result (PROCTOR),²³ Client, Acquire, Information, Partners, Response, and Assessment (CAPRA).²⁴

NEED OF ROBUST CRIMINAL PROFILING IN INDIA

In India hardly we are using Criminal Profiling method which is used by various countries to foster their Criminal Justice System and equip the criminal justice with Criminal Profiling, there can be umpteen reasons for not following the method but then there is only one reason for using this method that Criminal Profiling will reduce the burden from police, expeditious disposal, and help in the conviction of the offender. The first question that comes to mind is why we should go ahead with criminal profiling or is it effective? The answer is quite simple all the facts stated above are effective and efficient as well. The reason behind using this method of criminal profiling is the increase of crime each year, the number of violent and sexual crimes are proliferating in India, and as per the Crime Index, India Rank is 71 among 137²⁵ countries which is not a good figure to concur that we are safe. Moreover, India in 2019 had been ranked 5th dangerous country in the world.²⁶

²² Herve Borrión, Paul Ekblom, Dalal Alrajeh, Aiduan Li Borrión, Aidan Keane, Daniel Koch, Timothy Mitchener-Nissen & Sonia Toubaline, 'The Problem with Crime Problem-Solving: Towards a Second Generation Pop?' (2019) 60 *The British Journal of Criminology* 219 <<https://doi.org/10.1093/bjc/azz029>> accessed 23 December 2021

²³ *Ibid*

²⁴ *Ibid*

²⁵ 'Crime Index by Country 2021 Mid- Year' (*Numbeo*, 2021)

<https://www.numbeo.com/crime/rankings_by_country.jsp> accessed 23 December 2021

²⁶ 'Survey ranks India 5th most dangerous country to live in the world: Top factors that weighed down ranking' (*Financial Express*, 06 September 2019) <<https://www.financialexpress.com/india-news/survey-ranks-india-5th-most-dangerous-country-to-live-in-the-world-top-factors-that-weighed-down-ranking/1698399/>> accessed 23 December 2021

These statistics are not satisfactory and show the failure of the Criminal Justice System and it is important to address this issue to debate, discuss and decide regarding what steps we should take to robust Criminal Profiling, and promote this profession as a full-time service. India is the second-most populous country with lakhs of people, and no wonder to say this fact that crime is also committed in lakhs. In India in the 21st century, we still follow the traditional method of investigation and are reliant on the two agencies- the first is the police, and the second is the judiciary. Especially in criminal cases, the conviction rate of India in 2020 is 59.2%²⁷ and there is some whopping number which will blow the mind that currently 73,000 cases are pending before the Supreme Court of India and as per the reports more than 30 years cases are pending in the all over the courts and between 2019 & 2020 the number of pending cases are increased by 20% in the High Courts and former Supreme Court Judge Markedey Katju, he mentioned in his paper that it took 360 years to clear the backlog of pending cases from all courts of India.²⁸

There are several cases that per se show the debacle of the Criminal Justice system of India such as the Arushi Talwar case, Bermuda Triangle case, Nirbhaya case, Nithari killer case, Badaun gang-rapes case, and so on, so forth. No doubt, criminal justice needs to adopt Criminal Profiling on a serious note and make their preliminary investigation robust for producing effective outcomes. And sometimes wrong convictions also happen, and there is a lack of scientific and intellectual examination of evidence, if we assess our populace, rate of crime, rate of conviction, and criminal justice miscarriage in India, we have only seven Central Forensic Laboratories in India, Hyderabad, Delhi, New Delhi, Kolkata, Chandigarh, Bhopal, Guwahati, and Pune, however, for forensic examination of the evidence we still reliant on only CFSL Hyderabad. This triggering issue should be addressed at the national level.

REFORMS IN THE INDIAN CRIMINAL JUSTICE SYSTEM

²⁷ Vignesh Radhakrishnan, Sumant Sen, & Jasmin Nihalan, 'Serious offences dip in 2020, COVID violations pushes up crime rate' (*The Hindu*, 23 September 2021) <<https://www.thehindu.com.cdn.ampproject.org/v/s/www.thehindu.com/data/serious-offences-dip-in-2020-covid-violations-pushes-up-crime-rate/>> accessed 23 December 2021

²⁸ Tejeesh N.S. Behl, '4.5 crore pending cases, 50% Judges missing why Justice in India takes so long' (*Times of India*, 22 October 2021) <<https://m-timesofindia-com.cdn.ampproject.org/v/s/m.timesofindia.com/india/4-5-crore-pending-cases-50-judges-missing-why-justice-in-india-takes-so-long/>> accessed 23 December 2021

Some suggestions should be taken as a matter of fact and reform all those fragile areas of law which create an obstacle in the Criminal Justice system of India. In India, reforms are rare norms, and the irony is criminal justice system still follows draconian laws; on the other hand, we claim that we are free from servitude but is that true? Penology is predominant in the criminal justice system, and the use of penology must be effective and efficient; there is no universal definition, but the generic meaning of this term Penology is to give punishment, but it should be rational, and as we know that death punishment has given in rare of the rarest cases held in the *Bachan Singh v State of Punjab*²⁹, but the question is where Indian Criminal Justice is lacking, proper implementation of laws is the prime reason in India, and we should adopt the humane treatment with criminals and criminals are like a disease, and we have to treat their disease with proper implementation of the law by adopting the approach of reformation theory.

Forensic psychology needs to be strengthened by advanced equipment evidence should be examined at the forensic laboratory with advanced technology to get the authentic result. Its time to amend our code of criminal procedure, 1972, we need to establish the bedrock of Criminal Profiling at the nascent stage by adopting the method of UK or US criminal profiling as per their convenience in India, and we need criminologists for solving the criminal cases and open the avenues for 21st-century budding law students and lawyers to pick up this field as a profession. There are some intricacies at the Legislative, Executive, and Judiciary levels related to the pendency of cases, corruption, lack of teamwork between these three organs, and lack of legal awareness. We need to exercise this mechanism robustly as a precautionary principle to restore the robust criminal justice system in India.

RECOMMENDATIONS

There are some suggestive recommendations for the revitalization of the Indian Criminal Justice system and strengthening the mechanism of Criminal Profiling in India, they are-

²⁹ *Bachan Singh v State of Punjab* AIR 1980 SC 898

- We need to establish the Criminal Center for criminal profiling at the national level, and equip with infrastructure for researchers to study criminal profiling, and also read the research works of earlier researchers, e.g. Cesaro Lomborso's research paper "The Criminal Mind."
- We need to focus on rehabilitation, revamping Indian jails, providing 24 hours mental health services, and working on the implementation of laws rather than creating a heap of chaff laws.
- Constitute the teams of criminologists/psychiatrists to take the interviews of undertrials, death row prisoners, and ruthless criminals across the state, create a database at the national level, and link with Police, CBI, NIA, and other Indian Agencies.
- Robust the preliminary inquiry and appoint the criminologist/psychiatrist with the investigator officer.
- Indian Criminal Justice needs to spot the method of Criminal Profiling to make the process swift & accurate.
- Introduce criminology, victimology, and penology as a compulsory subject at Law University and give the students practical experience through an internship at law enforcement agencies of India.
- Need of regular training of police officials.
- We need rules, codified procedures, and provisions under Cr.PC to make Criminal Profiling an integral part of the criminal justice of India.

CONCLUSION

By and large, with all the facts, contentions, and recommendations, we need to understand that passing umpteen laws with zero implementation will not make a difference. For ages, we still follow the traditional investigation process, and many cases are still pending at courts, prisoners spent their whole life without trial, and still, crimes are increasing, then the question arises, where the Indian Criminal Justice system is lacking? It's time to adopt the methods which other countries are following throughout their criminal investigation, Project 39A and Death worthy is the epitome in criminal justice of India and is just a beginning in India; we need more research work, and the Government of India, law enforcement agencies, parliament, and judiciary have to come together and work tandemly to robust the Criminal Profiling in India.