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# The Role of Forensic Psychology in Criminal Trials in India: Admissibility, Ethical Considerations, and the Influence on Judicial Outcomes

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## ABSTRACT

*This paper examines the multifaceted role of forensic psychology within the Indian criminal justice system, identifying its potential, challenges, and areas for growth. The objectives of this research are to explore the admissibility of psychological evidence, the ethical considerations surrounding its application, and its influence on judicial outcomes within the Indian context. The methodology employed in this paper is primarily doctrinal, involving an analysis of existing legal frameworks such as The Bharatiya Sakshya Adhiniyam, landmark Supreme Court and High Court judgments. The paper also draws upon secondary sources, including journal articles and reports, to provide a comprehensive overview of the field. Key findings reveal that while Indian courts are showing increasing receptivity to psychological evidence under expert testimony provisions, the absence of formalized admissibility criteria, unlike the Daubert standard or Frye test, leads to unpredictability. The ethical landscape is complex, with significant concerns surrounding consent, coercion, confidentiality, privacy, potential for bias, and the reliability of certain techniques like narco-analysis. The influence of forensic psychology on judicial outcomes is currently limited by systemic barriers including a shortage of trained professionals, resource constraints, lack of judicial training in interpreting psychological evidence, and the need for greater public and judicial trust. The paper suggests a multi-pronged approach involving policy reforms to establish clear legal and ethical frameworks, increased investment in infrastructure and training for both psychologists and legal professionals, and public awareness campaigns to build trust in the field. A key loophole identified is the lack of standardized protocols and regulatory frameworks governing the application of forensic psychology in India, making its implementation inconsistent and potentially vulnerable to misuse. The paper concludes by emphasizing the promise of forensic psychology in modernizing the Indian criminal justice system, contingent upon addressing these existing limitations.*

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## I. INTRODUCTION

Forensic psychology is defined as "the application of psychology within the criminal and justice system". Forensic Psychology is the interface between psychology and law. It is the application of psychological principles and knowledge to various legal activities involving crimes listed under The Bharatiya Nyaya Sanhita<sup>4</sup> (formerly Indian Penal Code<sup>5</sup>) and other criminal laws in India. In broad terms, forensic psychology can be defined as the utilization of psychological services to understand the functioning of the legal and criminal justice system, offering a scientific approach to analyzing criminal behavior, victim experiences, and witness testimony. It bridges gaps between human behavior analysis and judicial decision-making, offering insights into criminal motivations, witness reliability, and offender rehabilitation. This research paper explores the multifaceted role of forensic psychology in Indian criminal trials, focusing on the **admissibility** of psychological evidence, the **ethical considerations** surrounding its application, and its **influence on judicial outcomes**. This analysis aims to provide a comprehensive understanding of the current landscape, challenges, and potential for growth in this field within the Indian context. The paper also examines systemic barriers, public and judicial perceptions, and the need for standardized practices to enhance the efficacy of forensic psychology in delivering justice.

## II. HISTORICAL AND THEORETICAL FOUNDATIONS

Forensic psychology in India traces its roots to the establishment of the Central Bureau of Investigation's (CBI) lie detection unit in 1968, marking early institutional recognition of psychological techniques in criminal investigations. Internationally, the field gained momentum with Wilhelm Wundt's pioneering work in experimental psychology, but India's trajectory has been distinct, characterized by slower adoption and reliance on clinical psychology for legal contexts.<sup>6</sup>

### (A) Types of Forensic Psychological tools

The investigation method uses a variety of well-known and commonly used forensic psychology instruments. These tools are quite good at identifying the criminals and can be used

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<sup>4</sup> The Bharatiya Nyaya Sanhita, 2023 Act No. 45 OF 2023 (India)

<sup>5</sup> The Indian Penal Code, 1860 Act No. 45 OF 1860 (India)

<sup>6</sup> Anjali Nandan, Forensic Psychology Applications In India: A Comprehensive Analysis, 12 IJCRT (2024)

together to corroborate suspicions. These resources are crucial to the course of the investigation.<sup>7</sup>

- i. Narco-Analysis Test
- ii. Polygraph Test
- iii. fMRI (Functional Magnetic Resonance Imaging)
- iv. Brain Electrical Oscillation Signature Profiling (BEOSF)
- v. Other Methods
  - a. Eye Detection
  - b. Layered Voice Analysis
  - c. Suspect Detection System

### III. LEGAL FRAMEWORK FOR THE ADMISSIBILITY OF FORENSIC PSYCHOLOGICAL EVIDENCE

#### (A) The Bharatiya Sakshya Adhiniyam & Expert Testimony

The legal foundation for the admissibility of forensic psychological evidence in Indian courts primarily stems from **The Bharatiya Sakshya Adhiniyam**<sup>8</sup> (formerly Indian Evidence Act<sup>9</sup>), specifically **Section 39** (formerly s.45), which governs the introduction of expert testimony. This provision explicitly states that "the court can take help of the experts, whenever it has to form an opinion upon a point of foreign law or of science or art, or as to the identification of handwriting and the opinion of such an expert is relevant". This legal provision creates the pathway through which forensic psychologists can present their specialized knowledge and assessments in court proceedings, assisting judges in understanding complex psychological aspects of cases that require expertise beyond general knowledge. Under this framework, forensic psychologists are permitted to submit reports based on interviews and assessments of individuals involved in criminal proceedings, providing courts with scientific insights into psychological factors that may be relevant to determining guilt, innocence, or appropriate sentencing.<sup>10</sup> This expert testimony becomes particularly valuable in cases where understanding the mental state or behavior patterns of the accused or victims requires specialized

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<sup>7</sup> Adarsh Kumar, Forensic Psychology as a crucial tool in investigation: An analysis of the admissibility of the evidence and its role in uncovering truth, SSRN (2024), <https://ssrn.com/abstract=4689791>

<sup>8</sup> The Bharatiya Sakshya Adhiniyam, 2023, Act No. 47 OF 2023, s.39 (India).

<sup>9</sup> The Indian Evidence Act, 1872, Act No. 1 of 1872, s.45 (India).

<sup>10</sup> Prakash B., Forensic Psychology and Its Impact on the Legal System, 5 JOCFS 1 (2023).

psychological knowledge that judges and lawyers typically do not possess.

### **(B) Judicial Recognition**

Indian courts have demonstrated increasing receptivity to psychological evidence, though judicial approaches remain inconsistent. The Supreme Court's landmark decision in *Selvi v. State of Karnataka* (2010)<sup>11</sup> acknowledged the psychological dimensions of interrogation techniques while establishing limitations on narcoanalysis, brain mapping, and polygraph tests. The Court recognized that these techniques involve "minimal intrusion into the mental privacy of the individual" and established that they cannot be administered without consent, reflecting concern for psychological autonomy.<sup>12</sup>

In *State of Bombay v. Kathi Kalu Oghad* (1961)<sup>13</sup>, the Supreme Court distinguished between testimonial and physical evidence, creating precedent later applied to psychological evidence.

More recently, in *Rojo George v. Deputy Superintendent of Police* (2021), the Kerala High Court accepted expert psychological testimony regarding a victim's post-traumatic stress as corroborative evidence.<sup>14</sup>

#### **a. Admissibility Standards**

While Indian courts have not articulated a comprehensive framework for admitting psychological evidence, judicial decisions have established several guiding principles. Courts typically assess psychological evidence based on:

- i. Relevance to material facts in dispute
- ii. Scientific validity of the underlying methodology
- iii. Qualifications of the expert providing the evidence
- iv. Reliability of the specific application in the case at hand

Unlike the United States' *Daubert* standard or the United Kingdom's modified *Frye test*, India has not formalized specific admissibility criteria for scientific evidence.<sup>15</sup> This absence creates unpredictability in how psychological evidence is evaluated across different courts and jurisdictions.

While interpreting expert testimony broadly, the Supreme Court of India in cases like *State of*

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<sup>11</sup> *Selvi & Ors vs State Of Karnataka & Anr* 2010 (7) SCC 263 (India).

<sup>12</sup> *Ibid.*, para 221.

<sup>13</sup> *The State Of Bombay vs Kathi Kalu Oghad And Ors* 1961 AIR 1808 (India).

<sup>14</sup> *Rojo George vs Deputy Superintendent Of Police* 2006 (2) KLT197 (India).

<sup>15</sup> *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) (USA); *R v. Mohan*, [1994] 2 S.C.R. 9 (Canada).

*Himachal Pradesh vs. Jai Lal and Others*<sup>16</sup> has emphasized the need for judges to approach expert opinions with caution, viewing experts as aids to judicial decision-making rather than as replacements for judicial discretion

#### **b. Psychological Techniques and Their Evidentiary Value**

Psychological assessment instruments face varying reception in Indian courts. Personality assessments like the Minnesota Multiphasic Personality Inventory (MMPI) have been introduced in criminal proceedings to assess offender characteristics, though courts typically treat such evidence as supplementary rather than determinative. Risk assessment tools designed to predict recidivism have received limited judicial attention, with courts expressing hesitancy about their predictive validity in the Indian sociocultural context.

#### **c. Testimonial Analysis**

Methods for assessing witness credibility represent one of the most contested applications of forensic psychology in Indian trials. *Statement Validity Analysis* and *Criteria-Based Content Analysis* have been introduced in several high-profile cases, particularly involving testimony from children.

In *Sakshi v. Union of India* (2004), the Supreme Court acknowledged the potential value of psychological insights in evaluating child testimony while emphasizing the need for culturally appropriate application of such techniques.<sup>17</sup>

#### **d. Investigative Applications**

Psychological profiling remains relatively uncommon in Indian investigations, though specialized units within the Central Bureau of Investigation and state police departments have begun employing profiling techniques in cases involving serial offenses. Courts have demonstrated caution regarding such evidence, typically treating profiles as investigative tools rather than probative evidence.

#### **e. Victim and Witness Psychology in Testimonial Processes**

Forensic psychology makes substantial contributions to understanding and supporting victims and witnesses during the often-traumatic process of providing testimony in criminal trials. This application has particular significance in cases involving vulnerable individuals, such as children or victims of sexual violence, who may experience secondary traumatization through

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<sup>16</sup> State Of Himachal Pradesh vs Jai Lal And Ors 1999 (7) SCC 280 (India).

<sup>17</sup> Sakshi v. Union of India, (2004) 5 SCC 518 (India).

the legal process.<sup>18</sup>

By applying psychological principles to testimonial processes, forensic psychologists help ensure that courts receive the most accurate information possible while minimizing additional harm to those who have already experienced victimization, thus serving both judicial and therapeutic goals simultaneously.

### **(C) Ethical Considerations**

#### **a. Consent and Coercion**

The ethical dimension of forensic psychological procedures emerges prominently in concerns about consent and potential coercion. In *Selvi*, the Supreme Court established that psychological techniques constituting "testimonial compulsion" violate Article 20(3) of the Constitution<sup>19</sup>, which protects against self-incrimination.<sup>20</sup> This decision reflects recognition that psychological procedures can compromise autonomy even without physical coercion.

The National Human Rights Commission has issued guidelines stipulating that forensic psychological examinations must obtain informed consent, particularly for procedures involving narcoanalysis or similar techniques.<sup>21</sup> However, implementation of these guidelines remains inconsistent across jurisdictions.

#### **b. Confidentiality and Privacy Concerns**

The practice of forensic psychology in Indian criminal trials raises significant ethical challenges regarding confidentiality and privacy, as psychological assessments often involve access to highly sensitive personal information. Unlike traditional therapeutic relationships where confidentiality is paramount, forensic psychological evaluations are conducted explicitly for court proceedings, creating inherent tensions between psychological ethics and legal requirements. Forensic psychologists must navigate complex ethical terrain, balancing their professional obligation to respect individual privacy with their duty to provide relevant information to the court. This balancing act becomes particularly delicate when psychological assessments reveal information beyond the immediate scope of the criminal proceedings but potentially relevant to understanding the full psychological context. The ethical framework governing these practices in India is still evolving, drawing from both international

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<sup>18</sup> Patisina et al., *The Contribution of Forensic Psychology to Improve the Protection of Rape Victims in Trials*, 3 FJMR 15-34 (2024).

<sup>19</sup> India Const. art. 20, cl. 3.

<sup>20</sup> *Selvi*, *supra* note 8.

<sup>21</sup> NHRC, *Guidelines on Administration of Lie Detector Test*, NHRC (Jan. 11, 2000), <https://nhrc.nic.in/press-release/guidelines-administration-lie-detector-test>.

psychological ethics codes and regulations such as the Mental Health Care Act<sup>22</sup>. As forensic psychology continues to develop in India, establishing clear ethical guidelines for handling confidential information in legal contexts remains a critical challenge, requiring careful consideration of both individual rights and justice system needs.

### **c. Potential for Bias and Misinterpretation**

Bias and external pressures further complicate the ethical landscape for forensic psychologists in India. Research highlights that cognitive bias and pressure from law enforcement agencies can compromise the impartiality of forensic assessments, undermining their credibility in court.<sup>23</sup> For instance, there is a risk that psychologists may face implicit or explicit demands to align their findings with prosecution narratives, especially in high-profile cases where public and political scrutiny is intense.<sup>24</sup> Such pressures not only violate ethical standards but also erode public confidence in the criminal justice system, as noted in studies advocating for stricter oversight and standardized ethical guidelines to ensure neutrality.

The ethical use of forensic psychological techniques like narco-analysis and polygraph tests also remains a contentious issue. While these methods can aid investigations, their potential to violate constitutional rights and their questionable reliability raise significant ethical concerns, often leading to judicial rejection of such evidence unless accompanied by informed consent and corroborative proof.<sup>25</sup> This underscores the urgent need for ethical guidelines that balance the pursuit of justice with the protection of individual rights, ensuring that forensic psychology contributes positively to the Indian criminal justice system without compromising fairness or integrity.

### **(D) Influence of Forensic Psychology on Judicial Outcomes in India**

The influence of forensic psychology on judicial outcomes in Indian criminal trials is an area with significant potential but limited empirical evidence. Forensic psychological assessments can play a crucial role in determining criminal responsibility, assessing fitness to plead, and providing insights into sentencing by evaluating the mental state of offenders.<sup>26</sup> For instance, in cases involving insanity pleas under Section 84 of the Indian Penal Code, psychological evidence has been pivotal, with studies showing that High Court judgments often rely on psychiatric opinions and documentary evidence of pre-crime mental illness, though successful

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<sup>22</sup> Mental Health Care Act, 2017, Act No. 10 of 2017 (India).

<sup>23</sup> C.E. Pratap, Ethical Aspects of Forensic Expert Evidence in Criminal Cases, 7 IJNRD (2022).

<sup>24</sup> Ankita Pandey & Dr. Shammi Kesh Roy, Forensic Science and the Law: Exploring Legal and Ethical Challenges in Criminal Justice, 5 IJRPR 4234, 4232-4237 (2024).

<sup>25</sup> A. Vedha Valli, Application Of Forensic Psychology In Indian Judiciary- An Overview, 7 JETIR (2020).

<sup>26</sup> R. K. Chadda, Forensic evaluations in psychiatry, 55(4) Indian J. Psychiatry 393, 393-99 (Oct.-Dec. 2013).



pleas remain rare (only 17% success rate in a decade-long review).<sup>27</sup>

### a. Case Studies

- In the *Nithari killings case*<sup>28</sup>, psychological evaluation of the accused influenced sentencing considerations, though not the determination of guilt. Forensic psychology played a significant role in the Nithari killings case by providing insights into the psychological profiles of the accused, Surinder Koli and Moninder Singh Pandher. Psychometric testing and psychological profiling revealed that Koli exhibited traits consistent with psychopathy, including antisocial behavior and a lack of empathy. These assessments helped investigators understand the motivations and mental state behind the gruesome crimes, which involved acts of necrophilia and cannibalism. However, the High Court of Allahabad eventually acquitted Moninder Singh Pandher and Surinder Koli in 2023, citing insufficient and unreliable evidence. The court criticized the investigation as incomplete and flawed, which ultimately worked in favor of the accused.

- In *Aarushi Talwar murder case*<sup>29</sup>, conflicting psychological analyses of the suspects exemplified the challenges courts face in evaluating such evidence. Psychological profiling and narco-analysis tests were conducted on the accused, including Aarushi's parents, Dr. Rajesh and Dr. Nupur Talwar, as well as their domestic help. These tests aimed to uncover inconsistencies in their statements and provide insights into their mental states. However, the results of such tests were not admissible as direct evidence in court, which limited their impact on the judicial process.

- In the *Hathras gang rape case*<sup>30</sup> (2020), BEOS profiling provided insights into perpetrators' mental states, though results were contested due to procedural ambiguities.<sup>31</sup>

This lack of clarity underscores the need for systematic studies to quantify the impact of forensic psychological assessments on judicial decisions in India. Moreover, the influence of forensic psychology on judicial outcomes is hampered by resource constraints and a lack of judicial training in interpreting psychological evidence. Judges often struggle with complex psychological data, which can lead to underutilization or misinterpretation of such evidence in sentencing and verdicts. Until these systemic issues are addressed through enhanced training for legal professionals and increased availability of forensic psychologists, the potential of

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<sup>27</sup> Ramamurthy P et al., How does India decide insanity pleas? A review of high court judgments in the past decade, 41 Indian J. Psychol. Med. 150, 150–54 (2019).

<sup>28</sup> Surendra Koli & Moninder Singh Pandher v. State of Uttar Pradesh, All. H.C. Oct. 16, 2023 (India).

<sup>29</sup> Dr. (Smt.) Nupur Talwar vs State Of U.P. And Anr, All. H.C. Oct. 12, 2017 (India).

<sup>30</sup> State v. Sandeep & Ors., Special Judge (SC/ST Act), Hathras, Mar. 2, 2023 (India).

<sup>31</sup> Anjali Nandan, *supra* note 3.

forensic psychology to significantly influence judicial outcomes in India will remain unrealized, as suggested by multiple analyses calling for infrastructural and educational reforms.<sup>32</sup>

### **(E) Challenges And systemic barriers faced by Forensic Psychology in India & Way Forward**

Forensic psychology in India faces numerous systemic challenges that hinder its effective integration into the criminal justice system. A primary barrier is the severe shortage of trained forensic psychologists, compounded by limited educational opportunities and professional recognition in the field. Only a handful of institutions, such as Gujarat Forensic Sciences University and the Institute of Forensic Science in Mumbai, offer specialized courses, resulting in a dearth of qualified practitioners to meet the demands of a country with high crime rates.<sup>33</sup> This scarcity directly impacts the availability of psychological expertise in criminal trials, limiting its application to high-profile or exceptional cases.

Resource constraints further exacerbate these challenges, particularly in government institutions where forensic psychologists often lack access to advanced tools and technologies necessary for accurate assessments. Underfunding and understaffing of forensic infrastructure, including laboratories and personnel, lead to delays in investigations and reduced quality of psychological evaluations, ultimately affecting the reliability of evidence presented in court.<sup>34</sup>

This is compounded by a broader lack of trust in the criminal justice system, as noted in studies that discuss public reluctance to engage with law enforcement due to perceived inefficacy and bias, indirectly affecting the acceptance of forensic psychological contributions.<sup>35</sup> Addressing these cultural barriers requires not only educational initiatives but also public awareness campaigns to build trust in forensic psychology as a legitimate and reliable tool for justice.

Finally, the absence of standardized protocols and regulatory frameworks poses a significant challenge to the field. Without clear guidelines for conducting assessments, presenting evidence, and ensuring ethical practices, the application of forensic psychology remains inconsistent and vulnerable to misuse. This systemic gap calls for urgent policy interventions to establish accreditation standards, training mandates, and legal frameworks that can support the growth of forensic psychology while safeguarding its integrity within the Indian criminal

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<sup>32</sup> Apurva Neel, Role of Forensic Psychologists in the Criminal Justice System, LEGAL BITES (Nov. 4, 2024 08:32 PM), <https://www.legalbites.in/forensic-law/role-of-forensic-psychologists-in-the-criminal-justice-system-1075824>.

<sup>33</sup> Prakash B., *supra* note 7.

<sup>34</sup> Rajesh Kumar Tiwari et al., Criminal Profiling in India: Challenges, Applications, and Statistical Analysis, 11 IJIRT (Oct. 2024).

<sup>35</sup> Manmeet Kour, Navigating The Complexities: Criminology And The Criminal Justice System In India, 11 JETIR (Apr. 2024).

justice system.

#### IV. CONCLUSION

The role of forensic psychology in criminal trials in India is marked by significant potential but equally substantial challenges. The admissibility of psychological evidence, while theoretically supported under **The Bharatiya Sakshya Adhiniyam**<sup>36</sup>, suffers from a lack of specific guidelines and judicial skepticism about reliability, often requiring corroboration with other evidence. Ethical considerations, including confidentiality, bias, and external pressures, pose critical dilemmas for practitioners, necessitating standardized ethical codes and oversight mechanisms to maintain integrity. While forensic psychology has the potential to influence judicial outcomes by providing insights into criminal responsibility and sentencing, its impact remains limited by systemic barriers such as resource constraints, a shortage of trained professionals, and a lack of awareness among public and judicial stakeholders.

Addressing these challenges requires a multi-pronged approach, including policy reforms to establish clear legal and ethical frameworks, increased investment in forensic infrastructure, and enhanced training for both psychologists and legal professionals. Public and judicial trust, currently hampered by limited awareness and reliability concerns, must be cultivated through transparency, education, and empirical research demonstrating the efficacy of forensic psychological assessments in achieving just outcomes.<sup>37</sup> As an emerging field in India, forensic psychology holds the promise of modernizing the criminal justice system, but realizing this potential will depend on concerted efforts to overcome existing limitations and integrate psychological expertise into the pursuit of justice in a nuanced, ethical, and evidence-based manner. Future research should focus on filling critical gaps, such as quantifying the impact on judicial outcomes and capturing societal perceptions, to provide a robust foundation for the field's growth in the Indian context.

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<sup>36</sup> BSA, 2023, *supra* note 5.

<sup>37</sup> Keval Govardhan Ukey et al., Critical Evaluation of Forensic Psychology of Criminals in Crime Detection from Indian Legal Perception, XXVI(S1) SEEJPH (Jan. 5, 2025).