NAMS CME 2023
FORENSIC ASSESSMENT IN PSYCHIATRY

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Learning Objectives

On attending this presentation, the attendee will know:

- Steps of forensic psychiatric assessment
- How to differentiate between malingering and true mental illness?
- How to assess fitness to stand trial?
- How to assess for testamentary capacity?

Some common requests for forensic assessment

CIVIL

- Guardianship
- Testamentary capacity
- Divorce on ground of mental illness
- Child custody
- Fitness for job

CRIMINAL

- Criminal responsibility
- Fitness to stand the trial of law

S.C.No .....

FIR No.....

P.S. .... U/S 302 IPC

To

The Medical Supdt.

.....

Accused AB is being produced by the Supdt, Jail at your hospital. You are requested to constitute a Board to examine him and to determine his mental status and submit the details. It may also be examined whether he is in a position to understand the proceedings of this case or not. The report be submitted on or before 10.10.....

Given under my hand and seal of this court on this day of September 20, ...

XYZ

Addl Sessions Judge

Delhi

Some Common Referrals for forensic assessment

Criminal cases:

- Whether the accused is suffering from a mental disorder?
- Whether the accused is of unsound mind?
- Whether he/she can understand the proceedings of the court?
- Whether the accused is fit to stand trial?

Civil Cases:

- To examine whether the person is capable of taking care of his person and manage his property
- Whether marriage can be declared null and void on ground of mental illness?
- Whether person is fit to continue in the job?
- Whether a parent is fit to be given custody of the child?
- Whether the person is competent to declare a will?

The request may say that the person is to be examined by a panel of psychiatrists

Ethical Issues

- Informed consent
- Confidentiality
- What information to be divulged to the court?
- Treatment aspects

Some Basic Concepts in Forensic Psychiatry

- Mental illness, insanity, unsoundness of mind
- Crime
- Code of criminal procedure
- Criminal responsibility
- Partial responsibility

Mental Illness vs Unsoundness of Mind/Insanity

Insanity and unsoundness of mind are legal terms

- Insanity: Equated to any psychiatric illness; usually a psychotic one.

A person may be a fit subject for confinement in a mental hospital but this alone is not sufficient to permit him to enjoy exemption from punishment.

- Unsoundness of mind implies a state of mind in which a person is *incapable of knowing that he/she is doing any wrong or anything contrary to law*.

In law every person is presumed to be sane and accountable for his/her acts unless the contrary is proved.

The burden to prove insanity is upon the accused.

Mental illness, Insanity & Unsoundness of mind

- Insanity and unsoundness of mind are legal terms.

Section 84, IPC: "Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law".

- Legal insanity means that at the time of commission of the act, the person should be suffering from mental illness, and also have a loss of reasoning power,
- Includes inability to make judgement and to know the consequences of the act

The person is incapable of knowing:

- *The nature of the act, or*
- *That he is doing what is either wrong, or*
- *Contrary to law*

Crime

A **crime** is an act declared by the law of land to be an offence at a particular time. It is a behaviour which is in violation of the law and is punishable.

Two components :

- ***Actus reas***, the guilty act against the law; the act of physically committing the crime
- ***Mens rea***, the guilty mind, the evil intent; culpable state of mind, characterized by intention or purpose, as well as knowledge of the consequences.

Both these elements must be present before an accused can be said to have committed the crime

Sec 328-339, Code of Criminal Procedure (CPC), 1973

When an **accused** is a lunatic and is consequently **incapable of making a defense,** the Magistrate enquires in the fact of **unsoundness of mind**…including examination by a medical officer.

If the **Magistrate** is satisfied that he is of unsound mind and thus incapable of making a defense, he **postpones** further proceedings in the case (Sec 328 CPC)

The accused can then be detained in **safe custody** (under ILA now MHCA, 2017) or be released pending investigation or trial if bail can be taken and sufficient security is provided by a relative regarding treatment and care of the accused

The **trial can resume if the accused ceases to be of unsound mind**

Criminal Responsibility
McNaughten Rules- Section 84, IPC

'Nothing is an offence which is done by a person, who at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing, what is either wrong or contrary to law.'

Insanity defense is usually used in charges of murder to escape capital punishment. When successful, the accused is 'not guilty'. However, the person is sent to a mental hospital for treatment.

Unsoundness of mind should have existed at the time of committing the offence. *Subsequent unsoundness is not a defense, but it may affect the trial.*

Criminal Responsibility: Guidelines for assessment

- Clinical history including personal, family and past histories and personality.
- Absence of motive
- Want of secrecy
- Want of preparedness
- Use of needless force
- Want of accomplices
- Multiple murders
- Indifference to the crime committed

The expert evidence does not relieve the court from forming an independent opinion. In fact, the question of insanity is to be primarily decided by the court, keeping in reference the evidences concerned

Criminal Responsibility : Partial Insanity

'Insanity, where **understanding and memory are intact**, and **dysfunction is** primarily in the **delusional area**' - **Partial insanity'**

Sec 84 IPC considers it as **partial insanity** where:

- The accused kills another person who he thought was coming immediately to shoot him and the accused acted in self defense, thus not knowing what he was doing was wrong or contrary to law
- The accused killed another person under a delusion that he was (say) an earthen pot, thus not knowing what he was doing

Idiots, imbeciles and persons who are deprived of all understanding and memory (**children below 7** or those between 7 and 12 of immature understanding), are clearly **not criminally responsible**.

Steps in Forensic Psychiatric Assessment

Detailed psychiatric assessment:

- History
- Mental status
- Observation as inpatient, if required
- Repeated assessments over a period
- Physical investigations, depending on the case
- Psychodiagnostics, if needed

Some Practical Problems

- Difference in the patient's condition between the
  - *time of crime,*
  - *time of assessment and*
  - *the time of hearing*
- Always need to be on guard, since falsification of information is not uncommon
- Need to be alert on reliability of the information, elicited on history and MSE
- Requests/influences/threats/ sometimes offers of favours by the family, antisocial elements; lawyers, persons in powerful positions- not uncommon
- Motivational factors; the patient and family may not divulge full information or misguide Often no one is available to corroborate the information

Fitness to Stand Trial: Basic steps

- Reviewing the defendant's relevant medical records.
- Reviewing relevant collateral sources of information (school records, interview family members, etc.)
- Personally interviewing the defendant, including:
  - A psychiatric diagnostic interview and mental status examination.
  - Defendant's orientation, memory, concentration, mood, affect and the presence of delusions, hallucinations and loose associations, etc.
  - Specific areas of competency to stand trial.
- Written report with a well-reasoned opinion, addressing the specific questions asked by the court

Specific inquiries to be made during fitness (competence) to stand trial evaluation (Noffsinger & Ressnick, 2017)

Ability to Understand Nature and Objectives of Proceedings

- Charges
- Role as defendant
- Severity of charge
- Pleas
- Courtroom personnel roles
- Adversarial nature of the trial

Ability to Assist in Defense:

- Cooperate with defense attorney
- Understand plea bargaining
- Willingness to consider mental disorder defense
- Appraisal of evidence and likely outcome
- Appropriate court room behaviour
- Rational account of defence
- Formulate defence plan
- Make reasonable defense
- Not resorting to self defeating behaviour

Assessment in Malingering

Systematic Approach to be followed:

- Gathering as much historical information as possible by in-depth interviewing and reviewing previous records (e.g., medical, psychiatric, educational, work, etc. from different sources).
- Maintain a genuine curiosity about the person, suspected of malingering
- Ask a wide range of open questions to gather in-depth information about symptoms.
- Interviews with family members, previous healthcare services, or current multidisciplinary staff providers, wherever possible
- When offenses are involved, police reports, witness statements, and autopsy reports
- Observation, not just in the interview, but across time and situations (e.g., during socializing; ward rounds; day care, or with other practitioners, such as occupational therapists, probation staff, prison officers, or teachers).
- Psychometric assessment (Personality Assessment)

If the malingerer has an existing mental illness, it should be treated as per standard lines

Case: Mr. A

- Accused of murder in 1989
- Sent for assessment in March 2000; whether he is suffering from a mental illness and whether he is fit to stand trial
- Had been examined by different medical boards at the institute 6 times during the previous 10 years
- Also seen at a teaching hospital in 1987
- The court suspected that he was malingering

Mr. A. Clinical Presentation

- History of loss of sleep, wandering on terrace during night, saying that food smelt of meat, talking irrelevantly, suspiciousness, hearing voices - Since 1985
- Talked about many superpowers giving instructions to him, controlling him and the world by satellites - being on a mission on their orders
- Persecutory delusions, delusions of control, bizarre delusions, auditory hallucinations

Mr A

- Psychopathology was consistent over the previous 10 years as recorded in our hospital records
- CT scan head : NAD
- Psychodiagnostics : favored a diagnosis of schizophrenia
- Admitted for observation and treatment from 23.2.1998-6.4.1998 and 27.3.2000 –24.4.2000; Was otherwise on regular treatment on outpatient basis
- Was never able to give any details about his legal case
- Observation did not reveal any inconsistency in symptoms or behavior
- No significant response to any treatment (antipsychotics including clozapine, ECT)

Report of Medical Board about Mr. A dated 19.4.2000

Mr. A was examined by the Medical Board at ..... on 5.4.2000 and 19.4.2000.He was also admitted for observation from 27.3.2000 to 24.4.2000.The subject has delusions of persecution, grandeur and auditory hallucinations. Delusions are well systematized and consistent for 8-10 years, recorded in hospital case file at different times. He is suffering from paranoid schizophrenia. He is not able to understand the nature of offence, he has been accused of, the court proceedings and hence he is not fit to stand the trial of court.

(Member) **(Member)**

(Chairperson, Medical Board)

Mr. B

38, male; charged of murder u/s 302; sent for assessment:

- Whether he is of unsound mind ?
- Whether he can understand the proceedings of the court ?

➢ *First contact on 25.7.2000;*

➢ *Seen by Medical Board on 9.8.2000 and recommended hospitalisation for observation; Admitted from 12.8.2000 – 13.9.2000;*

➢ *Re examined by the Medical board on 6.9.2000 and 13.9.2000 and the final report submitted.*

Mr. B

- Only complaint : hearing barking dogs; Diagnosed as schizophrenia in Jail Hospital;
- Had an old prescription of a GP with diagnosis of schizophrenia, also mentioning his referral to NIMHANS
- Examination (including pentothal interviews), observation and psychodiagnostics (Rorschach, personality tests for memory and organic impairment) did not reveal any significant psychopathology.
- 'I don't know' responses were common especially to questions related to crime.

Correspondence with NIMHANS revealed that he was admitted there from 28.11.1994-13.12.1994. A provisional diagnosis of schizophrenia was made. History was just of 2 months. Had been seen only twice in follow up on 2.1.195 and 7.3.95

Mr. B

Mr. B thought that if he got a certificate from hospital, he would be acquitted; Was always emphatic that he had not committed any crime; was never able to tell how and why he reached the jail; Able to give details of his earlier life in Mysore and Bangalore; Ward observation did not reveal any abnormality

Medical Report:

"Mr. B had suffered from a psychotic disorder in the past in1994-95. At present he does not have any psychiatric illness needing treatment. He does not give any details about the criminal charges, he has been accused of or details regarding defense saying that he does not know. Objectively, there is no significant memory impairment. There is no evidence to suggest that he is not fit to stand trial."

Case: Mr. C

22 yr old male, accused of sexual assault in1995 and of murder in jail in1996; sent for assessment in Feb 1997 from jail for:

- Whether he is suffering from a mental disorder or not and if so specify the nature of disorder ?
- Whether he is mentally sound to stand trial ?

First contact with Mr. C was in June 1995 before the commission of crime when he had presented with wandering around aimlessly, violent behaviour, disturbing neighbours, attacking members of opposite sex for about 2 years;

Diagnosed as Psychotic disorder, unspecified type and prescribed antipsychotics.

In jail, he had been found talking irrelevantly, smiling to self and indulging in unprovoked aggression

Mr. C

Admitted for observation and treatment from 27.2.97-18.3.97 and 25.3.97-21.8.97

- In the court, had shown inability to hear;
- ENT assessment revealed neural hearing deficit; BERA (Brainstem Evoked Response Audiometry) showed profound hearing loss in Rt ear and mild loss in Lt ear.
- Was provided with hearing aid in the hospital.
- During ward stay, would always avoid questions related to illness and crime, but would respond to questions related to personal details, sometimes on oral and sometimes written interview.
- On one or two occasions, gave rough details of the crime about sexual assault and its consequences, but immediately avoided the further questioning. Always used the pretext of hearing deficit to avoid questioning.

Board gave the opinion that he is suffering from a psychotic disorder of unspecified type from which he has improved with treatment and was declared fit for trial

Case D. Malingering of Amnesia

- 22 year old male; Accused of theft and double murder
- Claimed loss of memory
- Brought to hospital for assessment with a convoy of police, on being referred from Kathua, Jammu & Kashmir (600 km from Delhi)
- Admitted for observation in psychiatric setting
- Investigated; no abnormality detected
- One day opened up out of fear that he may be given electric shocks, while he was being taken up for X ray & admitted that he was feigning memory loss on the advice of his lawyer
- Report of his being fit sent to the court

Case E. Person accused of triple murder

- 40, male, accused of triple murder in 1996
- Attempts at bail had failed
- Apparently advised by a lawyer to mimic mental illness in 2000
- Admitted in 2000; No abnormality detected
- Started accusing the clinical unit head of being against him
- On the 3rd day of admission, tried to assault the unit head with an iron rod and broke window glasses of the nursing station
- Staff did not show any reaction
- Discharged and report sent to the court

Characteristics of Crime in a Mental Disorder

- Absence of motive
- No attempt at concealment of crime
- Absence of accomplices
- Impulsivity in crime
- Victims are often near and dear ones
- Brutality of crime
- Complete emotional indifference
- Amnesia for the crime may be present
- Past history of mental illness; crime is not the first manifestation of mental illness

Appointment of Guardian and Manger for the mentally ill

When a medical practitioner is called upon to give his opinion, after the examination of as mentally ill person in such cases, he should not simply mention that the subject is mentally ill, but should certify the mental illness is of such degree so as to render him incapable of taking care of himself or/and manage his property.

One must be careful while giving this opinion because a person may be mentally ill but capable of taking care of self and property

Assessment is made about the extent of lacking sufficient understanding or capacity to make or communicate reasonable decisions or taking care of self.

In case of doubt opinion should be given towards sanity rather than insanity

Case: Ms F

Ms F, a 56 yr old unmarried lady, was brought by her elder brother on a court order dated 28.8.2000 for examination by a panel of doctors to determine whether she is capable of taking care of her person and manage her property.

The report was to be submitted by 5.9.2000

- Seen in Walk in clinic on 1.8.2000
- I.Q. done on 8.9.2000
- Detailed work up on 8.9.2000
- Seen by the Medical Board on 20. 9.2000

Case: Ms F

- Symptomatic since early childhood
- Symptoms characterized by low intelligence, inability to take care of basic personal needs, unclear speech, inability to remember even names of even her immediate family members
- Two GTCS about 1 month prior to assessment, for which treatment had been started
- Elder brother had been supporting her since the death of parents

Case: Ms F

IQ Findings : MA 3 years on GDT

3 years on VSMS

SQ 20

CT Head Brain atrophy with hydrocephalus

Report of the Board:

Ms A is not capable of taking care of her person and manage her property

Child Custody and Adoption

Generally it is presumed that the welfare of a child of tender years is best served by maternal custody, when the mother is a good and fit parent

However, the following points need to be considered :

- Conflicts between parents, or between parents and grandparents, or natural and adopting parents, regarding the custody of the child
- Permission to the divorced father to visit the child with maternal custody
- Proper placement of child, where the mother is mentally ill
- Suitability of child for adoption
- Emotional stability of the couple for adoption

Child Custody and Adoption
Hindu Adoptions and Maintenance Act, 1956

- Any male Hindu who is of sound mind and is not a minor can adopt a child.
  - *Provided that, if he has a wife living, he shall not adopt except with the consent of his wife unless the wife has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.*
- Any female Hindu, having a sound mind, a major, and is eligible for adopting a child can adopt a child.
  - *If the female Hindu is married and wants to adopt a child she has to take the consent of her husband as well before adoption, and the consent should be free. unless the husband has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.*
- The person capable of giving in adoption should be of sound mind

Testamentary Capacity

Request may come from self, family or the court

Detailed psychiatric assessment especially cognitive functions needs to be done

The subject must know:

- The nature and extent of his property
- The fact that he is making a will
- The identities of his natural beneficiaries (spouse, children and other relatives

Testator's mental status at the time of writing the will should be stated.

It is possible that the person may be suffering from a mental illness

Divorce on Ground of Mental Illness

- According to Hindu Marriage Act, Parsi marriage Act, and Christian marriage Act, divorce can be granted
  - *if one of the parties is of unsound mind of incurable nature or suffering continuous or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably expected to live with him.*
- As per the Muslim marriage Act, Muslim women can seek divorce on the ground that her husband has been insane for a period of 2 years.
- Indian divorce act (for Christians) – unsoundness of mind is a ground for divorce on two conditions:
  - *It must be incurable*
  - *It must be at least for 2 years immediately before filing the petition*

Ms G: Normal Wife Declared Mentally Ill by Husband

- Ms G, 28/F (M), attended the psychiatry OPD on 17/5/09 for assessment of any psychiatric illness
- Reason for assessment: Husband seeking divorce through court stating the wife to be suffering from a psychiatric illness
- Facts revealed on detailed history
  - *Married in Feb 07, marital discord over trivial issues since then*
  - *After altercation with her, the husband asked her to leave the house as she was not liked by in laws anymore*
  - *Delivered a baby boy at her parental house*
  - *Returned back to in laws in few months but the marital discord continued*

Ms G

- Husband filed a case in court seeking divorce stating that she is suffering from a mental illness
- Some issues were resolved after the court's intervention and on 24th April 09; she agreed for a psychiatric assessment
- Psychiatric assessment did not reveal any active psychopathology and no evidence of a psychiatric illness - No psychiatric illness currently
- Psychological testing showed normal intellectual ability, immaturity, dependency, anxiety and affection needs; stress in the area of interpersonal relations; overall an integrated individual, no evidence of any psychiatric illness
- Final report: No psychiatric illness currently

Mr H: Mentally Retarded Husband Exploited by Wife

- 35/M (M), uneducated, sent by the court for psychiatric assessment
- Reason for assessment: Court requisition for psychiatric assessment about his incapability of looking after his interests, managing his properties and personal relations
- Facts revealed on detailed history
  - *Delayed milestones (walking at 6, language at 7); Started school at 11yrs, dropped out in 2 yrs & could not learn to read or write*
  - *Able to carry daily living activities (bathing, dressing, eating) by the age of 16-17yrs*
  - *Helped family with small house hold and field work*
  - *Never able to handle money matters or had any close friends*
- Behaved appropriately in social conditions, interacted with his siblings, but at times would get angry on trivial issues

Mr H

- Married at 28; marital discord began soon as wife reported
- Unable to handle the marital responsibilities
- Wife took patients thumb impression on the property documents & sold his land (100sq mt) without consulting family members or informing the patient
- Psychiatric assessment revealed decreased comprehension, below average intelligence & impaired judgment
- IQ assessment: VSMS, mental age of 7 yrs and 5 months with a IQ to be in the range of 47-50
- Final diagnosis: Moderate mental retardation

Case H - Mentally Retarded Husband Exploited by Wife

- Found to be able to take personal care, but not aware of the property or money matters
- Could manage social relations to little extent with immediate relatives
- At home would look after the cattle under SUPERVISION
- Report given by the medical board

"He has moderate mental retardation (IQ 47 – 50) and is not able to looking after his interests and managing his properties, but is able to take care of personal relations to some extent"

Case J and K. Two cases accused of serial killing – Nithari serial murders

Nithari- a small urbanized village in NOIDA, an residential cum industrial township adjoining the city of Delhi. Some young girls had reportedly gone missing in 2005 and 2006 from the village.

In Dec 2006, two Nithari residents suspected Mr E, a domestic help in a house in NOIDA, to be involved in these disappearances

The suspicion rose from finding of human body parts by some of the residents in the drain of the municipal water tank located behind the specific house.

Further extensive search by the police of the drain and digging of the area around found many human body parts and also decomposed bodies.

Only two persons used to live in the specific house, the owner (Mr F) and the domestic help (Mr E); the two were taken into custody for investigations by the local police; Later considering the enormity of the crime, the investigation was handed over to higher agencies at national level.

https://en.wikipedia.org/wiki/2006_Noida_serial_murders

Case J and K. Two cases accused of serial killing – Nithari serial murders (Contd.)

- Most of the missing persons included young adolescent girls/young women of the locality
- The two suspects were taken in custody by the investigating agency. As a part of further investigations, mental health assessment of the two suspects was also sought
- In the background of the huge hue and cry raised in local and national media, the two suspects were being kept in high security cover by the agency
- It was planned to have serial mental health assessments in an identified secure area in the hospital, where the two suspects would be brought, since it was not feasible to keep the two as inpatient for observation due to security issues.

Mr J (assessments conducted in Feb 2007)

- 31, married male, educated at primary level, domestic servant; in present job since Jan 2004; Wife and children in native place, 500 km away
- Whenever his employer used to go out, he would be asked to sleep in the drawing room of the house. Other days, he used to sleep in the servant room.
- While sleeping in the drawing room, he reported hearing sounds of some dogs barking . Sometimes, he would claim seeing a figure in white suit with long hair standing near him and laughing. He could see only her back and never saw her from front.
- Such experiences never happened during day time or while he was sleeping in his own room. This was very distressing.
- Once or twice he had seen such a figure near a tap on the backside of home. He had informed his employer about seeing the figure sometime after many months. His employer had reassured him that there was nothing like that.

Mr J

- History of masturbation since age of 14-15; almost daily, while in the present employment. Used to have fantasies of killing the girls and having sex with the dead bodies and cutting them.
- Continued to masturbate even after marriage, even when with wife.
- Had some problems regarding erection in the last few years. Whenever he went to village for 8-10 days, he could perform sex well only once or twice; suffered both erectile dysfunction as well as premature ejaculation.
- No history of having sex with children in the past (current details given earlier) or with animals.
- Would get thoughts of killing and eating someone, cutting and eating someone since adolescence.

Mr J

- One day (sometime in Jan or Feb 2005), he called a young girl of 13-14 yrs of age from outside to the drawing room around 10-11 AM, when his employer was not in the house.
  (he used to be alone in the house after morning, when the maid servant and the gardener would leave after finishing their daily chores. The employer would leave home around 10-10.30 AM, return for lunch, and then go away and come back at 7.30-8.00 PM).
- Was not able to recall the events afterwards till about 4 PM; saying that he does not remember what happened.
- At about 4 PM, he saw the girl, lying dead with a scarf tied around her neck. He then realized that he might have killed her by strangulating and might also have had sex with the body.
- He then became anxious. Her shoes were in the bathroom. He cut her body into pieces and also ate her flesh, filled the body parts in small polythene bags (which were in plenty in the house) and threw in a drain outside the house in the night.

Mr J

- In the same way, he killed many girls and two boys whom he had mistaken as girls.
- Did not know most of them except two, R (8-10 yr old girl whose relatives stayed in a nearby house, and J (10-12 yr old girl, daughter of washerman, who used to come to take clothes). According to him, he might have had sex with their bodies.
- Did not have any thoughts about his wife and children while committing these acts.
- He had also cooked and eaten flesh from breasts and arms of the bodies twice.
- He gave names of two boys as H (4-5 yrs) and M (7-8yrs), whom he had killed. He probably did not have sex with them.

Mr J

- He had also killed two ladies by strangulating them (named them as P and Pk); Also had sex with them.
- Did not have any remorse after the events. But he was not able to sleep for 2-3 days after each event because of anxiety but would be calm afterwards.
- He also told that sometimes he would get anxious about what would happen if somebody saw him disposing off the body parts.
- He also complained of difficulty in sleeping for about 3 years. There was no history of pervasive low mood, anxiety, depressive ideation, suspiciousness, fearfulness, first rank symptoms and hallucinations.
- There was no history of any episodes of seizures, unconsciousness, head injury and substance abuse.

Mr J

- **Awareness about the crimes he has been accused of:** Aware of the criminal charges he was being investigated for
- **State of mind at the time of commission of crime:** Difficult to comment, as the subject said that he was not able to remember his state of mind at the time he had allegedly committed the criminal acts of murder and had sexual intercourse with the bodies. It appeared that he was emotionally charged at that time. But he was anxious while he was disposing the body parts of the children and ladies he had allegedly killed. He also used to feel afraid that somebody might see him while throwing the body parts and then he would be in trouble. He also never bothered about the consequences of his actions.
- An impression could be drawn that he was fully conscious at the time of the alleged commission of crime and was also aware of the consequences of the act.
- **Possible consequences if proved guilty:** Expressed ignorance, but aware that he had done a serious crime
- **Understanding about legal proceedings and ability to defend himself:** Said that he did not know

Mr J

- **MRI: WNL**
- **EEG: NAD**
- **Psychological Testing:**

Average intelligence and good organization ability along with aggressive tendencies, sexual dysfunction and hostility to females. There was no evidence of any psychotic or organic disturbance.

Medical Report

- Mr. J was referred by the CBI for forensic psychiatric assessment by a medical board ……(Ref ……..). He was examined by a duly constituted Medical Board (Ref ……) consisting of Prof……., Prof ……., Prof ……., Dr …….and Dr …….. The Board examined the accused on 19.02.2007, 20.02.2007, 22.02.07, 23.02.2007 and the necessary investigations were done. EEG and MRI brain were normal. Psychological testing revealed average intelligence and good organization ability along with aggressive tendencies, sexual dysfunction and hostility to females. There was no evidence of any psychotic or organic disturbance.
- On the basis of history, sequential examinations, psychological testing, EEG and MRI brain, the board opines that the accused Mr E is suffering from Necrophilia (ICD Code F 65.8) and Necrophagia. He does not suffer from any psychotic disorder or any other psychiatric illness except for necrophilia and necrophagia, a type of paraphilia, a sexual perversion disorder. He was fully conscious at the time of the alleged commission of crime and also aware of the consequences of the act. There is nothing to suggest from the assessment that he is not fit to stand the trial.

Mr K (assessments conducted in Feb 2007)

- 49 year old, married male, businessman, graduate from a lead institution of Delhi
- Lost mother at age of about 7-8
- History of use of alcohol in dependent pattern and diabetes mellitus for around 15 years (on treatment)
- Had lost his father around 8-9 months ago
- Felt depressed and reported ideas of hopelessness, as he was beaten up by the jail inmates on the day of his arrest, and later by the lawyers. This has made him question his future place in the society.; reported transient thoughts of dying but was able to cope up, thinking about his son.
- Regarding the events leading to his arrest, he informed that he had felt smell because of a big drain in front of his house and had enquired about it from his servant who told him that the neighbors had thrown garbage.
- He and his wife had gone to Australia in Jan 05 where wife stayed for one month and he stayed for 15 days. He had observed no change in his servant's behaviour.

Mr K

Forensic examination

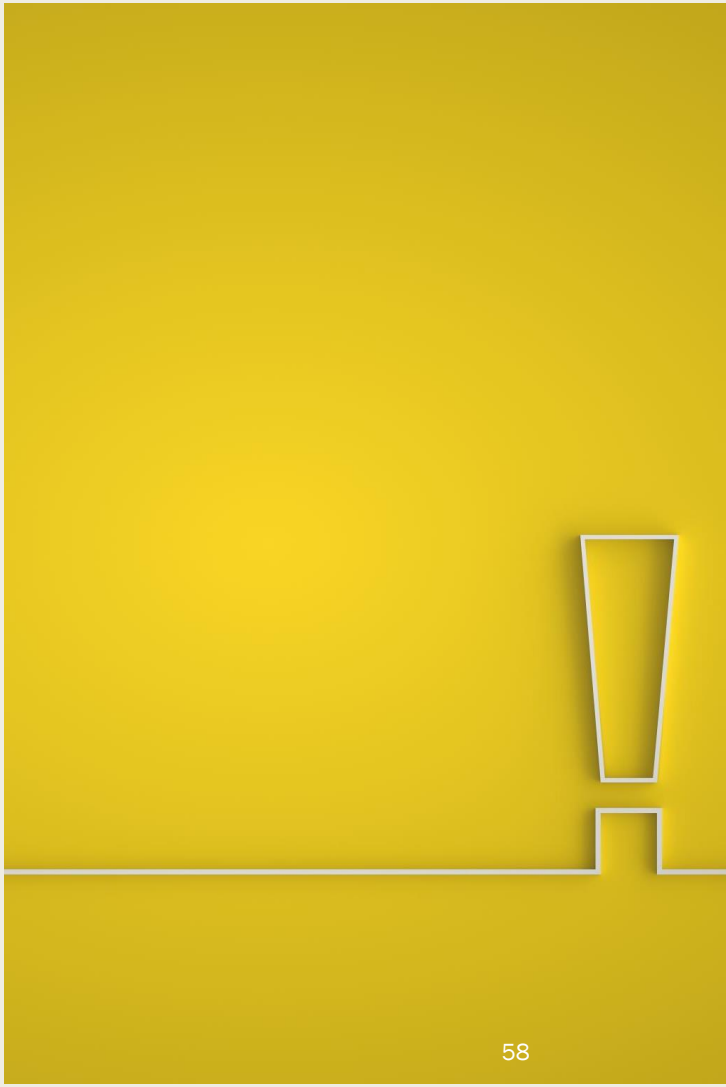
- **Awareness about the crimes he has been accused of:** Had been interrogated about his knowledge of alleged criminal activities of his servant and murder of the lady ‘Payal’.
- **State of mind at the time of commission of crime:** Not applicable
- **Possible consequences if proved guilty:** He reported that it could be quite harsh
- **Understanding about legal proceedings and ability to defend himself:** He told that he would justify his innocence

Psychological Testing:

- Anxious and depressed mood due to current circumstances; sexual conflicts and internalization of aggression; No evidence of any psychotic or organic disturbance.

Mr K

- On the basis of history, sequential examinations, psychological testing the board opines that the Mr K had suffered from Alcohol Dependence (Currently in remission).
- He did not suffer from any psychotic disorder or any other psychiatric illness. He is aware of the criminal charges he is being investigated for.
- There was nothing to suggest from the assessment that he is not fit to stand the trial.



Medical Report

- The accused Mr K was referred by the CBI for forensic psychiatric assessment by a medical board at ……. (Ref …….). He was examined by a duly constituted Medical Board (Ref No. ……) consisting of Prof …….., Prof …….., Prof ……., Dr ……..and Dr …….. The Board examined the accused on 20.02.2007, 22.02.07 and 23.02.2007 and the necessary investigations were done. Psychological testing revealed anxious and depressed mood due to current circumstances, sexual conflicts and internalization of aggression. There was no evidence of any psychotic or organic disturbance.
- On the basis of history, sequential examinations, psychological testing the board opines that the accused Mr F suffered from Alcohol Dependence (Currently in remission). He did not suffer from any psychotic disorder or any other psychiatric illness. He was aware of the criminal charges he was being investigated for. There was nothing to suggest from the assessment that he was not fit to stand the trial.

Psychiatrist as Expert Witness in the Court: Some helpful principles

- Listen closely to the questions
- Should stop talking the moment the judge begins to speak
- Should remember the limit of our field; avoid the words such as “always” and “never”
- If pressed to answer in yes or no to a complex question, one can say that ‘this question can not be answered in yes or no’.
- Should not be reluctant in saying, if it is true “I don't know”
- Speak simply, avoid jargon and be tactful.

Some Common Questions in the Court

- What is the psychiatric diagnosis?
- What are the findings of physical exam.?
- Is the accused sane?
- What is the intelligence level of the accused?
- Is the accused an alcoholic ?
- Was the accused drunk when the crime was committed ?
- Is the accused addicted to some drugs ?
- Did the accused know the nature of the act charged?
- Did he know what he did was contrary to law?

Some Important questions in the Court (contd.)

- Does the accused understand the seriousness of his predicament?
- Is the accused capable of cooperating in his defense?
- Was the accused capable of forming the degree of intent , willfulness or premeditation which the act required?
- Was the accused in grip of some irresistible impulse at the time of crime? If yes, what was its cause: psychosis, neurosis, rage of psychopathic reaction, rage of a normal, but unstable and frustrated person
- If amnesia is alleged, its cause: cerebral concussion, epilepsy, intoxication or nay other?
- Prognosis in terms of treatability and future danger to the society

Challenges in Conducting Forensic Assessment

- Concerns about consent
- Ascertaining that information being given is correct
- The person being examined may give conflicting information
- Conflicting versions may be there from different sources
- Ethical dilemma for the psychiatrist

Preparing Final Report

Should include:

- Identification details: Name, age sex, father's name
- Reason and Source of referral
- Assessments carried out with dates
- Response to the questions asked
- If the person requires treatment, it should be mentioned clearly

Cautions:

- Be relevant and specific in the report
- Avoid technical terms

Conclusion

- Expert opinion does not relieve the court from forming an independent opinion.
- The medical evidence helps the court in reaching a judgment.
- Sometimes, it may not be possible to provide answers to all the queries from the courts. In such cases, reason may be communicated like that of the limitations of the science or limited sources of information.

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Thanks for your kind attention and patient listening