

## Of crime and punishment

Police reform in India has been concerned with political interference ever since the landmark Supreme Court judgement, in 2006, on the subject. The focus should really be on reorganising criminal administration.

The annual publication of the National Crime Records Bureau (NCRB), "Crime in India 2016", which was released recently, presents a dismal picture of the key performance statistic with only 47% convictions in Indian Penal Code (IPC) crimes at the national level.

Delhi provides an interesting case study, where there is no political interference and the Police Commissioner reports to the Lieutenant Governor, and not the Chief Minister. With a population smaller than Mumbai, it has two times the number of police stations. Yet, in Delhi, while 1,90,876 persons were sent to trial last year, there were only 9,837 IPC convictions in the year. In Delhi only 58% of those arrested were chargesheeted, while in Mumbai, more persons were chargesheeted than were arrested for IPC crimes. In Delhi, 13,803 crimes against women were reported and no chargesheets filed in 4,371 cases (32%); in Mumbai with 5,128 crimes reported against women, final reports were filed in only 15% of cases. The key statistic of police performance is not merely correct reporting and recording but chargesheets and convictions, as this impacts on criminal behaviour.

In Delhi, DNA testing, which can secure higher conviction rates, is, inexplicably, a low priority. There is only one forensic testing laboratory, with around 9,000 samples pending for examination. Over 5,000 are DNA samples. Delays in this crucial evidence, which plays an important factor in acquittals, are a setback as samples deteriorate with time. Consequently Delhi has a conviction rate of only 21%, 24% and 30% in cases of kidnapping and abduction, rape and murder, respectively.

The Delhi Police website says that it is perhaps the world's largest metropolitan police force and arguments that Delhi accounts for 38% of the total crime under the IPC because of its migrant population are a simplistic explanation. Delhi accounts for five times the IPC crime when compared with Mumbai, and 33% of violent crime in metros when compared with 13% in Mumbai. Crime prevention is affected by conviction rate, beat patrolling, and by the police and community working together.

There is a need to distinguish between accountability and operational responsibility. For example, 'the Mayor of London is responsible for setting policing priorities that will hold the Met Police Commissioner to account. Operational decision-making on day-to-day policing remains the responsibility of the Metropolitan Police Commissioner. The Police and Crime Plan 2013-2016 has clear performance measures that focus on results such as 20% reduction in key neighbourhood crimes, 20% reduction in delays in the criminal justice system, and 20% reduction in reoffending by young people leaving custody. The plan was based on extensive consultation which included town hall meetings, additional stakeholder forums, focus groups and an online survey.

In addition to those related to roles and responsibilities, there are also systemic issues. Despite the recommendations of Law Commissions and the Supreme Court, as well going by experience in the developed world, we do not have separate wings for investigation of crime and for law and order. Related to this reform is the debate whether the police is a functional "service" based on skills of investigation or a "force" oriented towards "effect" which on command will operate regardless of the cost to itself or the social fabric. Similarly, in most countries, the prosecutor, and not the police, has discretion on whether to press charges as they involve adjudication. Years ago, the Law Commission had suggested a directorate of prosecution independent of the police to

guide investigation.

Second, there is still controversy over which kinds of conduct are best controlled by the application of criminal law and which kinds by other means.

For example, special and local offences account for as much crime as under provisions of the IPC, with nearly 60% of cases under liquor and narcotics offences at the national level. Causing simple and grievous injuries under rash driving accounts for 11% of IPC crimes; theft also accounts for 16.6% of IPC crime at the national level.

For Delhi, half of theft cases involve motor vehicles. Cases related to liquor and motor vehicles account for more than a third of all cases. The criminal justice system should be limited to crimes under the IPC, while enforcement of administrative law and social legislation requires a different approach involving summary trials, changing societal attitudes and modes of behaviour. For example, in Britain part-time lay judges outnumber full-time judges, leaving the judiciary to concentrate on the real crime.

Third, the effectiveness of prisons is now being questioned. Nearly two-thirds of the prison population is awaiting trial and half the number of undertrials are normally acquitted. Over 80% of prisoners are sentenced to terms less than three months, 40% are under 30 years old, semi-literate and convicted under special and local acts. Criminologists now feel that short-term sentences expose such prisoners to criminal indoctrination in jail and social condemnation on release, with a strong case for greater reliance on compounding, probation and parole.

The main purpose of criminal administration should be the prevention of crime, and the police cannot be an instrument of social change. Administrative measures and fines levied by honorary and executive magistrates will change behaviour better than penal action.

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The definition of harassment needs to be constantly updated, and the process for justice made more robust

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