Crime victimisation surveys in Indian criminal justice system reform

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Abstract

A primal goal in state building is the establishment of conditions of safety for residents. This creates conditions for individuals to explore the world, and engage in creativity and leadership, across all walks of life from economics to politics, thus positively impacting upon the culture. The criminal justice system is the state-run institutional arrangement which is tasked with creating these conditions of safety of individuals. Traditionally, policy thinking on the criminal justice system has emphasised inputs (expenditures, recruitment) and outputs (trials, prisoners). As with other elements of public policy, it is important to measure *outcomes*: the safety as seen by residents. Crime victimisation surveys are the fundamental building block of the criminal justice system which deliver outcomes measurement. A regular program of such measurement can feed back into improved working of the criminal justice system, and the analysis of the causes and consequences of personal safety. In this paper we review developments on this measurement program in India of recent years.

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1 The criminal justice system in the larger context of state building

Going by Max Weber's definition, the state is defined as a community that achieves and maintains a monopoly on physical force in a given territory. State building consists of creating conditions under which residents do not inflict violence upon one another. In the jargon of public economics, the personal safety of citizens is a "public good". It satisfies the two tests for a public good: it is *non-rival* (your consumption of safety does not diminish my safety) and *non-excludable* (we cannot exclude a new born child from the blanket of safety) (Kelkar & Shah, 2019). Hence, personal safety of residents is a legitimate goal for the state.

The criminal justice system is unusually important, from the viewpoint of both economics and politics:

- In the political system, if individuals are not safe when organising political activities, the foundational concept of democracy - free competition between rival political parties - breaks down.
- In the economic system, if individuals are not safe when conducting business activities and imposing competitive pressure upon rivals, the foundational concept of capitalism - free competition between rival firms - breaks down.

In both aspects (politics or economics), remarkably modest levels of violence are required, in order to induce fear through a threat of violence. Once violence is a feasible strategy for some individuals, even on a small scale, this gives a decline in competitive conditions in politics and economics. It creates a strong temptation for unethical actors to get ahead through violence rather than through building better firms or better political parties.

In politics and in economics, the hallmark of competitive conditions is close elections and the lack of domination by one party, or one firm in the marketplace. These yardsticks are only meaningful under free and fair conditions. Once violence is in the picture, these yardsticks are no longer a sufficient condition for ascertaining that healthy competition is in fray.

As an example, if one firm has 34% market share and another firm has 32% market share, the interpretation changes sharply when the former firm deploys violence upon the other. If competition in the market is free and fair, then it is reasonable to think that the two firms have similar levels of productivity. If, however, one of the two firms is gaining an upper edge through

the use of violence (delivered either through private persons or through employees of the state), then the ranking by market share is not reflective of the ranking by productivity.

The personal safety of residents is also linked to freedom of speech. Violence or the threats of violence can be directed against persons who present uncomfortable facts and arguments into the public domain, thus inducing a chilling effect, and hampering the culture.

For these reasons, protecting residents against internal violence is a fundamental aspect of every successful state. Personal safety is of enormous intrinsic value: high levels of safety directly generate welfare. Safety fosters exploration of the world, by the individual, under conditions of freedom, which is a purpose of human existence. The intertwined feedback loops through which capitalism and freedom improve welfare are founded in an environment of personal safety. Conversely, when safety is under threat, it is not clear that political and economic freedom induce positive feedback loops upon each other.

Every state aspiring for high capabilities builds institutional capacity to pursue the goal of the safety of residents. This is a combination of addressing external threats, which are addressed through a combination of international relations and military capabilities, and internal threats, which requires the criminal justice system (CJS).

2 Building the Criminal Justice System

The criminal justice system (CJS) is the institutional infrastructure that ensures safety of citizens. It consists of laws, courts, public prosecutors, police and prisons. In India, there are foundational flaws in each of these elements, and across many decades, a process of improvement has not commenced.[1] A research community is required, which is able to understand the full landscape of the CJS, and undertake the rational process of identifying problems, developing a strategic sense of the required changes, and working on the practical aspects of the small improvements which are made every day. A small process of thinking about courts has begun in India, but on the remaining elements there is a weak landscape (Datta et al., 2019; N. Saravade, 2015b; Shah, 2012).

As with many other fields, one strand of the Indian policy discourse on CJS

[1]For example, see (Bhandari, 2016; Parsheera, 2015; N. Saravade, 2015a; P. Saravade & Sane, 2013).

reform consists of technological solutionism. This assigns supremacy to building computer equipment and associated monitoring mechanisms over the people such as mass surveillance using video cameras. However, as has been seen with many other fields in India, the human behaviour of the individuals that make up the state are shaped by incentives, and a more fundamental transformation of organisations, process manuals, power and incentives is required (Datta & Shah, 2015). Computer technology can be a part of a useful reform process, but a digital-first approach is generally unsuitable.

In the CJS, in particular, there is a greater danger of a digital-first approach inducing intrusions into the privacy of individuals, and tilting the balance of power away from individuals and into the hands of state organisations (Bailey et al., 2018). Computer technology can be a useful element of a sophisticated reform program, but such a reform program needs to be primarily rooted in modifying the nature of state power and the incentives of self-interested state functionaries.[2] The first step in such a reform program is that of establishing basic measurement of the functioning of the system.

2.1 The role of measurement

In most areas of public policy, it is useful to think in terms of a three-stage process:

Inputs We start at the inputs, a design of government, which maps into recruitment of personnel, purchases of goods and services, and their deployment into operation of exerting coercive force upon society, through a certain set of process manuals. The inputs are ultimately grounded in a theory of change about the nature of the world and the value of such state intervention. As an example, in the field of education, the inputs are teachers recruited and school buildings built.

Outputs The functionaries go about their process manuals and produce certain proximate outputs. As an example, in the field of education, the outputs are students enrolled and hours of teaching delivered.

[2]For an analogy from the world of business, consider transformative 'Business Process Re-engineering' (BPR). BPR projects have repeatedly generated large improvements in productivity. All BPR projects involve computer technology. However, BPR projects are led by the top management, and primarily reshape organisation design, incentives and processes. A great deal of computer engineering is an implementation pathway. If the computer engineering were present, but the top management were not absorbed in a more fundamental reshaping of the organisation design, the technology transformation by itself would not sufficiently reinvent the firm.

Outcomes Finally, there is the desired impact upon society, the outcome. As an example, in the field of education, the outcome is the change in knowledge of children.[3]

Similarly, in the field of bankruptcy, Shah and Thomas, 2017 define inputs as the laws and the institutional infrastructure required for the bankruptcy process to work, outputs as the transactions that go through the system, and outcomes as recovery rates, and broader growth in the credit markets.

Such an approach helps ensure that policy making does not stop at inputs or outputs. It generates insights into whether the present strategy of inputs and outcomes is able to generate the desired outcomes. The education bureaucracy may like to count the number of teachers recruited, the number of schools built, the number of children enrolled, and the pass rate of students in the official examination system. However, what matters most in measurement is finding a random sample of 15 year olds and administering an internationally comparable test (the OECD PISA) upon them, to judge the knowledge of science and mathematics in these students.

This approach to outcomes measurement readily lends itself to bang-for-the-buck measures. As an example, in the field of education, it is easy to measure the per pupil expense ("PPE"). In the Indian case, over a period of the last 20 years, the PPE has risen greatly while the outcomes have essentially not changed. This helps question the theory of change that has shaped the existing design of inputs.

In the case of policing, inputs would be policemen or public prosecutors hired, and police stations or jails built. Outputs may be measured from within the MIS of the police. This would include measures such as the number of cases filed, the number of cases where prosecution in court commenced, the success rate in achieving conviction, and the crime rate (as measured in the MIS of the police).

The outcomes would be a citizen-centric view of law and order. They are the ultimate output that we seek to deliver. They consist of three things: a) the actual incidence of crime as reported by the people (and not as counted in the MIS of the police), b) trust in the policing system, and c) perception of safety that enables freedom in behaviour.

Once we have a clarity on the desired outputs, we must ask the question: How could these be measured? How can datasets be constructed, across

[3]See http://www.asercentre.org/Learning/Trends/-/p/375.html for the measurement of educational outcomes by ASER.

pincodes and across time, about the state of safety in the country? There is quite a bit of knowledge, internationally, on how some of this measurement is done.

For an array of standardised crimes (e.g. theft of a car), a random sample of households is asked questions:

1. In the last one year, have you or your immediate family experienced this crime;
2. If you did, did you go to the police and was it a satisfactory experience;
3. If, hypothetically, you were to experience this crime in the future, would you go to the police?

The advantage of this household survey based measurement is that it avoids the infirmities of the MIS systems within the police. If households prefer to not file an FIR, or if filing FIRs is difficult, then crime events would not show up in the police MIS systems. In contrast, household-survey based measurement generates direct evidence of the outcome.

An important element of all public goods problems lies in 'coping costs'. E.g. When the electricity supply is bad, we buy voltage stabilisers or generators. It is, hence, important to measure the adaptations and distortions of behaviour of households that are caused by the prospective fear of crime. This would include questions such as:

1. How much are you spending for security related services?
2. At what time in the evening do you feel it is unsafe for your teenage daughter to be out alone?

A good state of law and order is one where households lead an unencumbered life, where they do not suffer from costs of coping. The decision of a resident to engage in economic activity or political activity should not be shaped by the threat of violence that might be encountered.

The measurement of crime as seen from citizens versus the measurement of crime as seen in the official police MIS will throw up some discrepancies which are also interesting. They portray the unwillingness of citizens to go to the police, which can also yield insights on how to improve the police.

Our first task in Indian criminal justice system reform is to establish the statistical system. This requires ongoing measurement through two tracks : (a) Internal MIS of the police and (b) Survey-based measurement of outcomes.

3 Crime victimisation surveys in India

In India, small scale city based surveys measuring crime have been conducted since the 1980s. These include surveys that studied causes of victimisation, or the perception of the citizens by police and lawyers in the 1980s (Krishna et al., 1981; Rajan & Krishna, 1981). The first crime victims survey, with a sample of 1000 respondents, took place in 1992: the International Crime (Victim) Survey in Bombay (ICS Bombay). This was followed by surveys in four cities of Tamil Nadu - Madurai, Coimbatore, Trichy and Chennai, in 2001 (Chockalingham, 2003). In 2007 and 2008, a survey was conducted in Rajasthan that also asked questions on non-reporting of crime (Banerjee et al., 2021). This survey showed that 1.7% of individuals were victims of a crime in the prior year, and that 5.9% of households had at least one member who was a victim of a crime. Theft was the most common type of crime (37.9% of all the reported crimes), followed by burglary (16.6%) and assault (12%).

Another source of information on incidence of crime have been surveys such as the India Human Development Survey (IHDS) and the National Family Health Survey (NFHS) - though strictly not about measuring crime - they provide an indicator of some kinds of crimes experienced by survey respondents. These are particularly valuable because these survey datasets also contain a rich array of other information about the households.

In 2015 and 2017, two large scale crime victimisation surveys were conducted, by the CHRI (Project Vishwas Setu) and the IDFC Institute (SATARC) respectively. The former surveyed 5850 households in Mumbai and 4950 households in Delhi while the latter surveyed Chennai, and Bangalore in addition to Mumbai and Delhi. There is much commonality between the two survey instruments, which focus on three aspects:

1. Was the respondent a victim of a crime in the last one year? (such as theft, house break-in, sexual harassment, assault, criminal intimidation, unnatural death, and missing persons)
2. Did the respondent report this to the police? Did the police respond appropriately? If the households chose to not report to the police, what were their reasons?
3. Do households feel safe in their neighbourhoods? Or in public transport? At different times of the day?

Both these surveys were focused on urban regions. The Karnataka Crime Victimization Survey (KVCS) 2018-2019, moved this forward to the full state

of Karnataka thus allowing a better understanding of both urban and rural regions in the state. The KCVS also expanded the range of crimes to include public order offences like rioting, arson and unlawful assembly, and offences committed by government officials like bribery and abuse of power.

Another important survey is the Status of Policing in India Reports (SPIR) in 2018 and 2019, which not only measured the perception on the incidence of crime but also measured the perceptions and response of the police personnel. This is interesting as it gives us a perspective on how those manning the police system look at crime, and their role in ensuring safety. It also helps us understand the "how" and "why" behind the crime.

There are some similarities as well as differences in what one learns from the three crime vicitimisation surveys. The KCVS, for example, reports a crime victimisation rate of 30%, that is nearly double that reported by the CHRI survey. This may be associated with much greater crime rates in rural India. The SPIR finds that people's perceptions of crime differs greatly from the actual number of reported crimes in the same region – states that have the highest reported crime (such as Kerala) have the lowest perception of crime.

All four surveys have similar findings on reporting behaviour of victims of crimes: there is large scale under-reporting of crime. The process of reporting, and dealing with the system, is one of the prime reasons why people do not wish to deal with the police. The surveys also point to under-reporting by the police - when households do make it to the police station, they often are not able to register an FIR, reinforcing the reluctance to go in the first place. The KCVS survey points out that this is not uniform across complaints - registering property offences is easier than offences against the body and law. The SPIR survey points to heterogeneity in the ability to register cases - the situation gets progressively worse for economically or socially vulnerable groups.

Despite these gaps, the perception of the police is better than what one would have imagined. The three CVS surveys show that around 50% of the victims are satisfied with the police response. However, as the SPIR points out, this overall satisfaction does not, at the same time, diminish the fear of the police.

The surveys find that a large number of households feel "safe" in their neighbourhoods in cities such as Chennai, Bangalore, and in the state of Karnataka. Mumbai also does reasonably well. Delhi, however, fares poorly on the perception of safety with more than half the respondents saying that crime is a serious problem.

4 The way forward

The criminal justice system is a core public good. The ultimate goal of state building in a liberal democracy is that the safety of residents should be unquestioned, which would create conditions for creativity and leadership. This calls for a high prioritisation of the elements of the criminal justice system.

One of the first steps towards this aspiration is the measurement of how the system works, and where and why it fails. This can help understand the correlations between other aspects of society - such as employment, education, prosperity etc. with those of crime. Such an understanding then lays the foundation for devising solutions. For example, one solution that is often talked of to reduce crime is to improve the quality of street-lights in public places. A regular measurement system also helps in evaluating whether policy actions are leading to the desired result. In the streetlight example, it would be useful to know what impact did the lights have on incidence of crime? Did they help as we had expected them to? If not, why did they not help. This can help policymakers do course correction before it is too late. There are two areas where we can make tangible progress in measuring the CJS.

1. *Reported crime data*: Improving the quality of measurement should begin with the data capture of registration of complaints and FIRs at the police station. As we have seen from survey evidence, there is a big gap between actual crime and registered crime. This gap needs to be reduced so that crime records can become more reliable. In India, the logistics of crime measurement are also problematic, in that, crime is recorded at the police station, and then aggregated at the district and state level. If the data flows through the various layers are filled with leakages, then even if the reporting improves at the station level, the aggregate statistics at the district, state and national level, will be beset with errors.

   There are two responses that are important. First, recording of data at the level of the police station should be given priority and should not be left as a "residual" duty for a relatively junior constable. This data needs to be captured digitally, and the data entry staff needs to be trained through a detailed process manual on the process of classification of crime as well as entering the records. This will help with achieving consistency of data across the country, and reconciling records as the data becomes more aggregated.

2. *Survey data*: Beyond official data, there is a need to measure household interactions with the criminal justice system. As discussed earlier, welfare of citizens is the ultimate outcome of the criminal justice system. The surveys

discussed in this paper are an important start to more systematic, comprehensive and continuous measurement of citizen experience with crime and the CJS. For the survey data to be credible, it needs to be conducted by independent groups (such as the role played by ASER in education). The existence of such survey data will allow researchers to build a literature on the causes and consequences of crime.

A critical component of such measurement is the existence of "panel data", which provides repeated measurements on individuals across time. This makes it possible for us to understand how crime trends and safety perceptions have evolved over time. It also helps to study how changes in social or economic conditions of individuals affect crime relative to changes in macroeconomic conditions, or changes in policy.

An example of how research on crime and safety is a study of women's labour force participation. A unique problem that is faced in India is the lack of women's labour force participation (LFP). Indian women's LFP is at 21%, which is one of the lowest rates in the world. In Bangladesh it is 36%, in Sri Lanka it is 34%, in Pakistan it is 22% and in China it is 61%.[4] A great research effort is underway, where economists, sociologists and anthropologists are deciphering the sources of the low women's LFP in India. It is likely that low levels of personal safety constitute one important constraint which is holding women back. If we are able to understand this constraint better, and improve conditions of safety, we would have a large impact upon women's LFP (which is an important objective in and of itself) and upon GDP.

Once a measurement system is in place, it should be used as an input into policy making. Measurement is also important in that it makes available "local knowledge" that can lead to a program of reform based on the state of personal safety and conditions in each location. For example, if evidence points to certain parts of India faring worse on crime and safety perceptions, then resources can be targeted towards towards those regions. The police departments in each region can design responses based on the problems in their jurisdictions. Similarly, if it emerges that there is a systematic pattern in when crimes occur, or on the kinds of victims that get targeted, then policy can be designed to tackle such crime. The research literature on the criminal justice system in India is in its early stages, as is the feedback from research into policy making (Khan & Unnithan, 2011). Improvements in measurement should be the catalyst in making this transformation.

[4]See https://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS

5 Conclusion

Most elements of the Indian state work poorly. The CJS is a particularly important element of the state, as personal safety is an essential precondition for the intertwined working of democratic politics and the market economy. In the sequencing of the elements that will make the Republic of India a mature market economy located in a liberal democracy, one of the highest priorities should be the establishment of a capable CJS, the interlinked institutional apparatus of laws, courts, police, public prosecutors and prisons.

Measurement of crime through FIR is limited (as the police exercise discretion on what FIRs are filed, victims may choose to not report crimes, and the process of capturing and the releasing the statistics is limited), Crime victimisation surveys, carried out on a household panel, can create important new knowledge about crime rates, the perceptions about the police in the eyes of the people, and the extent to which the lives of the people are distorted owing to the fear of crime.

Such data would be enormously influential. It would help measure the causes and consequences of changes to personal safety, assess the progress (or lack thereof) about this foundational public good, and support better decision-making at the leadership of the institutions that make up the CJS.

Early work on building CVS datasets in India has begun. Many of the papers in this book report on these experiences. There is a complex agenda for CJS reform, that is an essential element of India's journey in the days to come. Building high quality CVS data is a precondition for progress on the overall agenda of CJS reform.

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