



An analytical study of decreasing rate of conviction in India

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Abstract

According to data on conviction rate for 2014, collated by National Crime Records Bureau (NCRB) and presented by the government in Parliament, the percentage cases in which the accused received punishment stood at over 45%. In 2013, the same figure was 40.2% while in 2012 it stood at 38.5%. In 2014, Kerala was the best performing state with over 77% convictions while Bihar was the worst with just 10%. The trend is significant as since independence conviction rate in cognisable crime (offences which fall under Indian Penal Code) have been consistently falling. The oldest record in this respect is that of 1953, the year when NCRB began collating crime data. In that year, the percentage rate of conviction to total cases tried was almost 64%. In the next decade it improved to 65%. However, 70s onwards it has been consistently declining, dropping to less than 40% in 2012.

Keywords: conviction rate, parliament, crime, IPC, punishment, government

Introduction

According to data on conviction rate for 2014, collated by National Crime Records Bureau (NCRB) and presented by the government in Parliament, the percentage cases in which the accused received punishment stood at over 45%. In 2013, the same figure was 40.2% while in 2012 it stood at 38.5%. In 2014, Kerala was the best performing state with over 77% convictions while Bihar was the worst with just 10%. The trend is significant as since independence conviction rate in cognisable crime (offences which fall under Indian Penal Code) have been consistently falling. The oldest record in this respect is that of 1953, the year when NCRB began collating crime data. In that year, the percentage rate of conviction to total cases tried was almost 64%. In the next decade it improved to 65%. However, 70s onwards it has been consistently declining, dropping to less than 40% in 2012^[1].

Even Uttar Pradesh, with its infamous lawlessness, does better than the national average clocking 53.2%. Bihar is the worst with 10% conviction rate followed by West Bengal where the figure is 11%. Maharashtra, which not too long ago had one of the worst conviction rates hovering at 6-7% has shown marked improvement clocking a rate of 19.3% in 2014. In 2013, the figure for Maharashtra was 13% while in 2012 it was just 9%^[2].

A conviction rate is a number, usually presented as a percentage that indicates how frequently arrests in a given community lead to actual criminal charges. In most countries, being arrested simply means that one has been charged with a crime. Most arrestees appear before a court, which determines whether the arrest should lead to a criminal conviction. A conviction rate indicates how frequently arrests ultimately led to convictions within the span of a certain time window^[3]. Conviction rates are typically broken down by jurisdiction - that is, by city, state, or country. Individual courts and court systems may publish their own independent conviction rates for various crimes, too^[4]. Regardless of the setting, conviction

rates are not usually presented as universal rates, but rather as rates within a certain category of crimes. It is common for a government entity or court system to publish its homicide conviction rate separate from its drug infraction, kidnapping, or drunk driving conviction rates, for example.

Judges and prosecutors often isolate their own individual conviction rates as well for comparison and other purposes. Rates for these figures, who are government employees and civil servants, are also typically matters of public interest. Conviction rates can be used as one measurement of how effective a court or judicial system is. The number of convictions handed down by a judge can indicate how likely that judge is to convict an arrestee in a similar case, for instance. The relative strength or weakness of a prosecutor's conviction record can be similarly be a sign of how effectively he or she is protecting the community.

Extremes on either end of the conviction rate spectrum generally attract attention. Courts or judges with near-perfect conviction rates are often perceived as being harsh, often unnecessarily so. On the other hand, conviction rates hovering around 50 percent or less are often questioned as indicating a court's inability to properly or routinely administer justice. A prosecutor is usually the only person for whom a perfect conviction rate is nothing but positive. Only criminal cases can end in convictions, so it follows that conviction rates pertain only to criminal law matters. There has to be an arrest to be a conviction, and people are only arrested for criminal acts. Statistics like the number of times traffic stops result in tickets or the number of copyright infractions that lead to fines do not count towards a community or judge's conviction rate, because they are civil offenses.

The criminal conviction rates in India, or the share of cases where the criminals are successfully prosecuted each year, has suddenly improved is a welcome change. This is especially so since conviction rates cases has fallen for almost four decades from a high of 62% in the early seventies to a low of 38.5% in

2012^[5]. The first sign of a reversal in the fall of conviction rates was registered in 2013 when the continued fall was suddenly reversed and conviction rates were pushed up to 40.2%. Now the most recent numbers show that the improvement has been sustained with the conviction rates going up much faster yet once again to 45.1% in 2014^[6].

This is a major achievement and points to a substantial improvement in the justice delivery system or even in overall governance. Usually conviction rates can vary across countries, depending on the levels of the evidence required for convicting an accused in each nation. The level of success also depends on the competence of the investigating agencies and prosecutors^[7]. Since the level of evidence required for conviction has largely remained unchanged in recent years the higher level of conviction now would point to an improvement in the working of the investigative agencies and the prosecutors^[8].

But unfortunately the good news of the improvement in conviction rates is applicable only to some states across the whole country. While the levels of conviction has improved in states like Kerala and Tamil Nadu, where the success rates are already high, it continues to deteriorate in states like Bihar and West Bengal. And while states like Maharashtra, which has very low conviction rates have also shown some sharp improvement others like Uttar Pradesh continues to wallow at very low levels.

Numbers for 2013 and 2014 show that conviction rates in Kerala has gone up from 68.5% to 77% while that in Tamil Nadu has shot up from 58.8% to 65.9%. In contrast conviction rates has further come down from 14.4% to 11% in West Bengal and from 13.4% to 10% in Bihar. However, while conviction rates has shot up from 13.3% to 19.3% in Maharashtra it has remained sticky at 53.2% in Uttar Pradesh^[9].

What is surprising is the disparate rate of conviction in the different regions. Numbers for 2013 show that that Uttarakhand has the highest conviction rate in the northern region at 70.2%. It was followed by Rajasthan (62.2%), Uttar Pradesh (53.15), Chandigarh (50.9%), Madhya Pradesh (49.7%) and Delhi (48.9%) all registering a better performance than the all India average. States which lagged behind the country in conviction rates in the northern region included Punjab (36.4%), Haryana (31.3%) and Jammu and Kashmir (30.5%)^[10].

Things were more dismal in the eastern region where the conviction rates were the highest for Chhattisgarh (38.8%), followed by Jharkhand (25.15), West Bengal (14.4%), Bihar (13.4%) and Orissa (10.3%). However things were much better in the north east where the conviction rates was the highest in Mizoram (83.5%), followed by Nagaland (82.1%), Arunachal Pradesh (48.5%), Sikkim (43.8%), Manipur (43.5%), Meghalaya (40.7%), Tripura (50.9%) and Assam (8.6%).

In western India the highest conviction rate was in Gujarat (40.8%), followed by Goa (24.1%) and Maharashtra (13.3%). The southern region did relatively better with Kerala at the top (68.5%), followed by Tamil Nadu (58.8%), Andhra Pradesh (32.8%) and Karnataka (32.5%).

Though the recent improvements in conviction rates is a commendable improvement much more needs to be done to

improve the criminal justice delivery system. One major drawback is the growing number of pending cases. In fact recent numbers show that the number of accumulated cases has gone up from 85.49 lakh in 2010 to 89.39 lakh in 2011, 93.28 lakh in 2012 and 97.81 lakh in 2013. Similarly the trial completion rates, which is the ratio of cases tried to total accumulated cases, has also declined from more than a quarter in the early seventies to more than a fifth in the early eighties. The decline continues even now with the share of trial completed going down from 16.7% in 1993 to 13.2% in 2013.

Why conviction rate is lower in India, we need to first look at the general reasons

1. No witness protection program

India doesn't have a state sponsored witness protection program. Witnesses often turn hostile because of this.

2. Police not well equipped

The Police officials in India are poorly equipped. A lot of Police work is still done manually. Police official aren't trained to use computers and lack the necessary knowledge of both science and sadly even law.

3. Forensic laboratories

India doesn't have labs in all of the cities. DNA and other forensic data have to be sent to cities and that involves a lot of protocols (red tapism) as well as time.

4. Witnesses turning hostile

Sadly, this seems to be a major reason of low conviction rate in rape cases in India. A lot of times, the victims know the Accused. They either turn hostile owing to threats or settle outside the court^[11].

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^[12].

Reasons why India has a sexual violence problem

Few female police: Studies show that women are more likely to report sex crimes if female police officers are available. India has historically had a much lower percentage of female police officers than other Asian countries.

Not enough police in general: There aren't enough police dedicated to protecting ordinary citizens, rather than elites, a Brookings article argues, and the officers that are available often lack basic evidence-gathering and investigative training and equipment^[13].

Blaming provocative clothing: There's a tendency to assume the victims of sexual violence somehow brought it on themselves. In a 1996 survey of judges in India, 68 percent of the respondents said that provocative clothing is an invitation to rape.

Acceptance of domestic violence: The Reuters Trust Law group named India one of the worst countries in the world for women this year, in part because domestic violence there is often seen as deserved. A 2012 report by UNICEF found that 57 percent of Indian boys and 53 percent of girls between the ages of 15 and 19 think wife-beating is justified.

A lack of public safety: Women generally aren't protected outside their homes. The gang rape occurred on a bus, and even Indian authorities say that the country's public places can be unsafe for women. Many streets are poorly lit, and there's a lack of women's toilets, a Women and Child Development Ministry report said recently.

Stigmatizing the victim: When verbal harassment or groping do occur in public areas, bystanders frequently look the other way rather than intervene, both to avoid a conflict and because they -- on some level -- blame the victim, observers say. Male politicians contribute to the problem, making statements that make light of rape or vilify rape victims' supporters^[14].

A sluggish court system: India's court system is painfully slow, in part because of a shortage of judges. The country has about 15 judges for every 1 million people, while China has 159.

Low status of women: Perhaps the biggest issue, though, is women's overall lower status in Indian society. For poor families, the need to pay a marriage dowry can make daughters a burden. India has one of the lowest female-to-male population ratios in the world because of sex-selective abortion and female infanticide.

Suggestion to improve conviction rate in India

Members of the judiciary and prosecution and law and enforcement agencies expressed concern over the low conviction rate in the state. The experts said that it is need of the hour for an understanding between the police and prosecutors for a better criminal justice system and improved conviction rate.

The suggestion came at the one-day seminar on 'Enhancing the Effectiveness of Criminal Justice System' that was held at the state police head office on Saturday. They said conviction rates can be improved by correcting the process of investigation and filing chargesheet. Besides this, they also discussed the reasons behind low conviction rate. Chief Justice Subhro Kamal Mukherjee criticised a few public prosecutors who have developed laxity towards their profession^[15]. "There are many good public prosecutors, but they seem to have lost seriousness in the profession after they became salaried employees. This had led to increase in acquittal rates," he said. "The police, prosecutors and judges are all interlinked in the criminal justice system and thus they need to be effective in their areas. To avoid delay in conviction, the police need to file chargesheet with solid evidence and the prosecutors should take up the trial with seriousness^[16],"

Need for reform of criminal justice system

Mr. Malimath, who headed the Committee on Criminal Justice System and made series of recommendations on the need for reforming the system, said he had submitted his report back in 2003 to the Union government, headed by Atal Bihari Vajpayee, and none of the recommendations have been implemented. Mr. Malimath was delivering the keynote address after inaugurating the UGC-sponsored two-day national seminar on "Victim Justice—not only a legal problem but it is an extension of sociological and ethical implication^[17]"

"More than 80 per cent of reported crimes went unpunished

due to several reasons and the loopholes in the present criminal justice system and there was urgent need to review the system and take corrective measures to improve the conviction rates," A concerted effort has to be made to remove the infirmities in the cases presented in courts, he added. Police Commissioner A.B. Venkateswara Rao suggested to the MSJ to check whether there was any mechanism for verifying the authenticity of sureties submitted along with bail applications.

Direction to improve conviction rate

One of the recommendations said that the government needs to prepare an annual confidence report of senior police officers which would have negative remarks if the conviction rate in their jurisdictions was less than 33%. Also, public prosecutors would not be reappointed if their conviction rate falls below 25%. They will also not be eligible for promotions^[18].

Lawyer Y P Singh said that in most cases, the trial takes 10-15 years to conclude and the case may get transferred to other officers. "Cops working today cannot be held fully accountable for investigations carried out more than 10 years ago. There should be an independent review committee that will monitor the cases and the trial," he added^[19].

Singh also said that the target of 25% for prosecutors is also misleading. More often than not, smaller cases such as gambling and traffic transgressions are resolved. But conviction rates in serious offences remain low. "Cases need to be segregated and the target decided accordingly," he said^[20].

A police officer said that just they cannot be held responsible for poor conviction rates. "In most cases, witnesses turn hostile in court. This weakens the cases and tilts them in favour of the defence. Refresher sessions are underway to improve conviction".

Conclusion

It is up to the public prosecutors and police to ensure that the cases did not fizzle out due to procedural lapses and lack of coordination among them while jurisprudence continued to evolve for the better, he observed. Before the systemic flaws were set right by appropriate policy interventions, the law enforcement agencies and judicial officers should act in tandem for improving the rate of conviction, which was abysmal in India. A concerted effort has to be made to remove the infirmities in the cases presented in courts, he added. Police Commissioner A.B. Venkateswara Rao suggested to the MSJ to check whether there was any mechanism for verifying the authenticity of sureties submitted along with bail applications^[21].

Mr. Niranjan said stock sureties could be checked to some extent by insisting that those giving sureties on behalf of the accused should submit statutory proofs of their identity at the time of filing bail applications and be accessible for the investigating officers to examine the veracity of their credentials^[22]. Unless some remedy is found, it becomes extremely difficult to lawfully deny bail to persons in spite of their acts of offence having corroborative evidence, he affirmed. Mr. Venkateswara Rao observed that the 'bureaucratic inertia' prevented them from adopting the

innovative system which had been working successfully for last eleven years^[23].

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