

WHY INDIAN CRIMINOLOGY STRUGGLES TO INFLUENCE PUBLIC POLICY?

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ABSTRACT

Criminologists seek to answer directly or indirectly to the questions of public policy such as: why some people commit crime? How to prevent (or reduce) the incidence of crime/victimization? And how to rehabilitate offenders? Despite this seemingly natural connection, Indian Criminology has had little to no measurable effect on matters of public policy than some might expect. There is an imperative need for Indian Criminologists to engage directly in the policy arena, and advance the relationship between criminology, public policy and practice.

KEYWORDS: Crime, Criminology, Public Policy, Criminal Justice, Evidence, Practice.

INTRODUCTION

Criminology, as a scientific discipline in India, has developed significantly in the past two decades. The number of institutes offering PhD programs is growing, the volume of scholars advancing their career in criminal justice research is increasing, the quality of annual meetings of the *Indian Society of Criminology (ISC - established 1970)* is improving, and the level of international engagement in these meetings is getting higher with every event. Also notable is the emergence of the *South Asian Society of Criminology and Victimology (SASCV - established 2009)*. The society, as its name suggests, work towards promoting criminological and victimological education in South-Asian countries. Being the youngest society of Criminology in India, SASCV has not only contributed in expanding the avenues for publishing scholarly articles through its official journal – *International Journal of Criminal Justice Sciences (IJCJS)*, but also in pioneering the organization of peer-reviewed conferences on areas of crime and criminal justice in South Asia.

While this, the scientific reputation of the discipline has also grown dramatically, with National Academy of Sciences, India, conferring the *NASI-Scopus Young Scientist Award - 2012* (first time in the social sciences category) to a Criminologist (Professor K.

Jaishankar Last author of this article), for improving the causal knowledge of crime and the application of research for betterment of human conditions.

Despite these developments, the nexus between criminology and public policy remains incongruous and uneasy. The governmental strategies intended to prevent crime, punish and rehabilitate offenders, extend support services to victims of crime, appear to *form*, rather than be *formulated* (Khan, 1982; Bloomberg, Mestre & Mann, 2013). Political executive meet from time to time, assess the law and order situation, and if needed, issue directives to concerned departments. There is neither any infrastructure to provide resource-support for such initiatives nor any forum which allows researchers to exchange their findings with policy-makers and facilitate the formation of common policy-objective (Khan, 1982). If attention is focused on core-group meetings – one of the regular exercises of *national commissions* to deliberate policy issues – the absence of media in such forums does not allow for greater transparency of proceedings (Thakre, 2017). Because of this insularity, there has been little to no measurable effect on matters of public policy than some might expect. Clearly, the time has come for criminologists to engage directly in the policy arena, and advance the relationship between criminology, public policy and practice. This article is a perspective to discuss further on this issue.

Need for Evidence-Based Criminal Justice Policy

Policies should be based on high-quality evaluation research – not on political fancies. This approach, also known as evidence-based policy making, is harmoniously favored by social scientists, as criminological scholarship lack the “causal certainty” in its research findings. Besides, many criminal justice policies and programs impose heavy costs on the government, which in times of fiscal constraints, increasingly pressurize the legislature to make *budgetary* decisions. This calls for policy initiatives to be evidence-based.

The evidence-based movement has its origins in the field of medicine, beginning in the mid -1800's. The United States Federal Food, Drug, and Cosmetic Act required that the safety and efficacy of new drugs be demonstrated by scientific investigation before marketing was allowed. Shortly thereafter, the medical community began assembling evidence on effective interventions drawn from rigorous studies and disseminating it in a way that practitioners could easily access and apply.

In criminal justice, the mid-1970's saw a synthesis of research on corrections by Robert Martinson, followed by a 736 page book published by Lipton, Martinson and Wilkes in 1975, both of which seemed to lead to conclusion that “nothing works” in rehabilitating offenders. As Robert Martinson's “nothing works” proclamation waned in popularity, the so-called “what really works and how well” movement emerged as the dominant paradigm in mid-1990's and it continues to dominate the discussions relating policy positions even today. Why so? It is precisely because the citizens' expect that the state revenue – generated by their tax- be invested only on those programs which are most likely to produce positive outcomes. For example, rather than precipitously designing some interventions for sexual offenders, it would be more prudent and fiscally responsible to first conduct a systematic reviews of research regarding the management and treatment of sex offenders to identify the methods that have shown to be more likely to reduce the

severity and frequency of their offending behavior. Another important feature of empirical evidence is that it ensures the safety of citizens' as much as it justifies the state's decision to spend its' precious time and resources on the accused. This is especially true when criminal justice policies tend to infringe upon the individual rights and freedom of the accused.

Despite compelling reasons to enact evidence-based policies and practices, some scholars, however, still question as to what should constitute "evidence", and how high the bar should be set before the science of criminology might be in the position to inform policy (Blomberg, Mestres & Mann, 2013). Understandably, it is difficult to come across truly experimental research methods these days, but this should not prohibit criminologists from sharing the best available research – explaining sufficient cause-effect relationships, including what is now known versus what might be known in future – which is essential for responsibly guiding crime related policy.

Calls for Strengthening of Ties between Criminologists and Policy Makers

Criminologists can be instrumental in informing policy makers of the evidence. However, this will require criminologists to function more proactively than ordinary, to shift beyond their traditional role on campus and classroom, and to collaborate with 'drivers' of the criminal justice system (i.e., the executive and legislative branches of the government). In other words, besides research, criminologists will need to think in directions that enable them to market the *utility of their research* (Jaishankar, 2017a).

How, then can criminologists market their knowledge and scientific research? Perhaps, the best way to achieve this end is to increase their awareness of the mechanism by which policy makers (like Union Home Secretary, State Home Ministers, MLA's, MPs, Chief Justice of High Courts and Supreme Courts) and practitioners (Chiefs of Central/State Police, Prisons), *acquire* and *interpret* research and subsequently *use* research evidence (Jaishankar, 2017a).

While policy makers and practitioners acquire research through a number of channels, it is also important to develop liaisons with organization that broker and disseminate research evidence. In India, Departments of Criminology, Centers at Universities, non-governmental organizations (like Indian Society of Criminology, South Asian Society of Criminology & Victimology and Center for Criminology & Public Policy), advocates, lobbyists, and foundations can serve as a reliable medium to make the research evidence available to policy makers.

The process of interpretation occurs in economic, social and political context. Often times, while using the evidence to justify positions, understand problems and informing decisions, research findings are misinterpreted, partially extracted or otherwise misused in the process (Blomberg, Mestres & Mann, 2013). Criminologists must also understand that policy makers and staff routinely acquire new research articles or summary of finding, which they integrate with their respective knowledge/ideological framework (Chandra, 2018). Because of this, individuals who are the part of decision making body, continuously interpret (and re-interpret) the meaning of evidence in relation to local needs, contexts, fiscal constraints and visibility of the issue (Blomberg, Mestres & Mann, 2013). Thus, invoking more informed strategies, including the knowledge of various channels and processes explicitly or implicitly employed to make policy makers understand the quality

and nature of the evidence, will be useful for criminologists to frame their findings. After all, the extent to which research would influence policy-making is proportionate to the degree of familiarity of these officials with the research (Khan, 1982).

Contemporary Challenges for Criminology and Public Policy in India

Policymakers seek to address a formidable array of social problems including the problem of crime. In contrast, criminologists seek to discover the root cause(s) of crime, to explain why some people commit crime, to devise effective ways and means to prevent (or reduce) the incidence of crime/victimization, and to rehabilitate criminals as a normal member of the society. Safe to say, many, if not most, of the questions that criminologists seek to answer directly or indirectly pertain to the questions of public policy. Despite this seemingly natural connection, there are several challenges for criminology, causality and public policy. Criminologists who are opposed to a policy approach in the field say that:

Integrating criminology's scientific roles with public policy roles is complicated.

Criminal justice is inherently political.

Academic researchers are not able to commit the necessary time with policy makers

There is lack of consensus on 'causal knowledge' of crime.

There is infrequent participation of policy makers in criminology conferences.

The follow-up actions after conferences are nil.

Integrating Criminology's Scientific Roles with Public Policy Roles is Complicated

A number of criminologists and social scientists believe that it is fairly difficult to deliver compelling 'scientific facts and policy arguments' in the often-restricted time limits of, let's say, five minutes before the larger public, media, legislative, and policy making bodies, or to provide succinct answers to urgent policy questions from causally inconclusive research (Blomberg, Mestre, Mann, 2013). But the sooner they understand the delicate balance between the linkages of criminological scholarship and public policy, the better. Because, it's not always about identifying and advocating for a particular policy or practice; instead, it's about identifying and explaining the choices and likely outcomes of a policy or absence of policy from an accumulated body of relevant criminological evidence.

Criminal Justice is inherently political

There is a broad consensus among criminologists that it is difficult to appropriately implement reforms because of professional resistance, politics, bureaucratic obstacles and ideological conflicts. These opponents also argue that politics more often than not ignore empirical evidence and direct their policy position in a more politically viable direction (e.g. refusal to reverse their own position, hesitating to vote against the will of the majority of constituents; fear of appearing soft on crime or because they are reacting to a highly visible media account of an isolated incident, that, in their opinion demands a certain response) (Blomberg, Mestre, Mann, 2013). Take for example, the complicated relationship between sexual offences and death penalty. The 2012 Delhi gang rape case brought stringent laws to punish the rapists and to curb sexual violence against women and children. Almost six years after this incident, the rape and murder of an eight-year-old in Kathua and the sexual assault on a teen in Unnao, sparked a nation-wide protest, with people demanding death penalty for child rapists. Driven in part by public sentiments, the

Indian government recently passed an ordinance allowing death penalty for the rape of children younger than 12 years. While this policy rests on the philosophy that severe punishments will deter the commission of child rapes, criminological evidence, however, suggests that operating death penalty regime is ineffective as a deterrent and is more expensive than other sentencing measures. Despite evidence highlighting the need for diversion of financial resources into community-based child abuse prevention programs, this suggestion was considered politically unpopular. This shows the unending incompatibility between the science of criminology and politically influenced criminal justice system.

Loose Working Relationship with Policy Makers

It is hard to ignore the fact that best minds in academic criminology are hit by the intense pressure to produce scholarly work, and to provide stellar teaching, service and academic support, which generally prohibit them to establish an effective relationship with policy makers, practitioners, and legislative staff. Given this situation, how, then, would criminology researchers commit the necessary time to keep policy makers abreast of the evidence, to guide their interpretation of evidence and to assist them in using the research (Sparks & Loader, 2010)?

Academic Disputes among Criminologists Makes Policy Position Problematic

There are serious disputes among criminologists about what works and how well. The introduction of '*judicial waiver system*' in the newly enacted Juvenile Justice Act (2015) offers a good example. Although there is a growing consensus about the consequences of trying juveniles in adult courts and subsequently placing them in adult facility – with most criminologists arguing that it will not deter youth crimes, and further teach young offenders to become hardened criminals – some criminologists argue that operating the judicial waiver regime is worthwhile. Such controversial debates highlight why policy positions are difficult in criminal justice arena.

Infrequent Participation of Policy Makers in Criminology Conferences

Conferences are the cornerstone for setting up policy agenda. Unfortunately, many, if not most, of the criminology conferences held, these days, do not ensure the participation of policy makers and the so-called drivers of the criminal justice system. As a consequence, academicians end up discussing the most pressing problems and its solutions among themselves. Perhaps one of the most important things that conference organizers need to understand is that criminological research evidence would translate into policies and practices, only when, we get the policy makers in a participatory process, and insert them closely in the conferences. For example, a three-day conference may dedicate an exclusive session to discuss the outcome, recommendations and suggestions of the conference with the policy maker (and stakeholders) on the last day. However, for this to happen, conference organizers will need to appoint experienced rapporteurs. Notably, in India, this task is mostly given to students, whereas, in the Global North this task is done by senior academics. These experienced rapporteurs will summarize the conference deliberations into very specific actionable policy recommendations, which include, if possible proposed policies or suggestions for amending existing legislations.

Inactive Follow-up after Conferences

Follow-up is one of the critical factors in the implementation of conference recommendations. But despite its proven success, this strategy is still under-recognized by conference coordinators and public policy outreach coordinators of criminology societies. While some complain that policy makers do not respond to follow up requests after attending the conference, others argue that remoteness of society headquarters from the policy-making institutions is one of the biggest barriers to communicate with or visit these members post-conference (Jaishankar, 2017b). Yet, there have been many criminologists who refused to give up their efforts, and made use of emails and posts to follow up on commitments made by policy-makers.

Has this been effective? It appears that effective follow through, in addition to writing personal notes and visiting the decision-makers office, might also require documenting information such as: who attended the meeting, what was discussed, what was the general tone or feeling of the meeting, what was learned about the position or relevant interest of the policy makers. This information will be very helpful for the organizers in strategizing about how to approach these policy-makers in future visits (ASC Report, n.d.).

Conclusion: How Individual Criminologists can Influence policy?

Individual criminologists can influence policy in several ways, viz.: a) addressing the policy implications of their research b) engaging in news-making criminology, and c) establishing working relationship with policy- involved individuals and organizations.

Almost every peer reviewed journal, today, prescribe a word-limit for publication. Because of this constrain, accommodating extensive discussion of the findings that relates directly to policy and practice becomes a common impediment. Thus, publishing in journals that focus explicitly on policy relevance of criminological research can be the first step in the direction of influencing policy; although one should understand that merely publishing in such avenues will not be just enough. As with this, it should also be noted that academic societies of Criminology (in India) do not have a Journal/Magazine specifically devoted to policy discussion of criminological research. Therefore, the imperative to publish in policy focused journals should concur with opening of new publishing avenues that foster the relationship between criminological research and public policy. Such a concept will greatly reduce the dependency of criminal justice researchers to present their policy papers in western journals, which may or may not prioritize manuscripts pertaining to socio-cultural conditions of India.

A second way in which individual criminologists can exert influence on policies is through engaging more deliberately in *news-making criminology*. Research demonstrate that media depends crucially on expert sources to buttress their stories (Criminology and Public Policy, n.d.). However, in the absence of academic researchers, the media usually contact the state authorities (e.g. practitioners and criminal justice officials) to get the crime information. These expert sources, while more ideological in orientation, tend to rely heavily on anecdotal evidence (instead of research evidence), and are inclined to support 'tough approaches' to address the problem of crime (Criminology and Public Policy, n.d.).

Therefore, by participating with journalists frequently, criminologists can indirectly influence on the policy process.

While doing news making criminology can be extremely rewarding, there are clearly some downsides to this proposition. For example, while confronting immediate journalists' questions and answering urgent email inquiries, criminologists are forced to give simplistic explanations for complex phenomena. Due to this, journalists either misquote them or use selective material that distorts the meaning of the story (Chandra, 2018). Perhaps, criminologists should also understand that in order to make their work more public, they'll have to refrain from dull academic jargons and write in a clear and simple style.

Collaborating with policy-involved organizations is another way in which individual criminologists can affect the criminal justice policy. Although such organizations go by different names (for e.g. Center for Criminology & Public Policy established 2018) they essentially perform the functions of *Policy Guidance Bureau* (Umarhathab, 2016) or *Public Policy Board* (Kunjappan, 2018), i.e., to monitor research data and link them with policymaking process (Khan, 1982; Umarhathab, 2016; Kunjappan, 2018). In such settings, they may either contribute their expertise in evaluating specific programs or put together proposals for new initiatives (Criminology and Public Policy, n.d.). Moreover, establishing a close working relationship with individuals who are responsible for administering criminal justice process can substantially impact the policy (Unnithan, 2017).

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