

How to Improve Investigative capacity

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The Problem

LN Mishra murder case: 40 years on, 4 held guilty

Was killed in 1975 Samastipur bomb blast; sentencing on Dec 15

ANEESHA MATHUR

NEW DELHI, DECEMBER 8

NEARLY 40 years after the then Railway minister Lalit Narayan Mishra was killed in a bomb blast at a function in Bihar, four men on Monday were pronounced guilty of his murder.

Four persons, including Mishra, were killed and 25 injured in the blast during inauguration of the Samastipur-Muzaffarpur broad gauge line on January 2, 1975. The four convicts — Santoshanand Avdoot (75) Sudevanand Avdoot (75), Ranjan Dwivedi and Gopaljee (both in late 60s) — have been members of Ananda Marga group, which was accused of anti-govern-

THE CASE FILE

JAN 2, 1975: LN Mishra, then railway minister, gets injured in a bomb blast at a function at Samastipur Railway Station in Bihar.

JAN 3, 1975: Mishra succumbs to injuries

JAN 7, 1975: CBI registers case on Supreme Court order.

NOV 1, 1977:

CBI files chargesheet before a Patna court.

DEC 17, 1979:

Case shifted to Delhi on Supreme Court's order as first case in country

to have been transferred outside a state for fear of destruction of

denies to quash case proceedings.

SEP 12, 2012: Final arguments begin in a Delhi court in the case.

SEP 14, 2012: CBI tells Delhi court that Ananda Margas were behind the murder

SEP 12, 2014: Court reserves verdict for November 10.

NOV 10, 2014: Court defers verdict for December 8.

DEC 8, 2014: Court convicts Santoshananda, Sudevananda, Gopalji and advocate Ranjan Dwivedi for the murder of Mishra and two oth-



LN MISHRA

have heard the case, and one of the accused in the case died during the trial.

The accused had also approached the Supreme Court to quash the trial in 2012, but the plea was dismissed by the apex court, which said that the case could not be quashed simply because it had not been concluded in 37 years.

The judgment was pronounced in a packed courtroom with a number of *sanyasis* from Ananda Marga as well as the family members of the accused.

More than 200 witnesses, including 164 prosecution witnesses, and over 7,000 pages of documents were examined in this case over the trial period. Since 2012, the court has been hearing the case on a

Incidence & Rate of Total Cognizable Crimes Under Indian Penal Code (IPC) And Special And Local Laws (SLL)(2003-2013)

Sl. No.	Year	Projected Mid-Year Population (In Lakh)*	Incidence			Rate			Percentage of IPC Crimes to Total Cognizable Crimes
			IPC	SLL	Total	IPC	SLL	Total	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	2003	10682	1716120	3778694	5494814	160.7	353.7	514.4	31.2
11	2013	12288	2647722	3992656	6640378	215.5	324.9	540.4	39.9
12	PERCENTAGE CHANGE IN 2013 OVER 2003	15.0	54.3	5.7	20.8	34.1	-8.1	5.1	27.7
13	COMPOUND GROWTH RATE PER ANNUM	1.4	4.0	1.1	2.1	2.6	-0.3	0.7	1.9

- Crime has grown faster than the population
- Registration under SLL depends on proactive action

So, how was this investigated?

- Total number of cases, including those from previous year: **34,94,804**
 - (from current year: 26,47,722)
- Investigation completed: **25,44,761**
 - Sent for trial: **18,99,576 (~75%)**
- Carried over to investigate next year: **9,48,888**

The Hidden Demand

- Jalpaiguri Experiment
 - 4 to 6 times increase in FIR registration
- Delhi Police 'crime surge'
 - 64,882 IPC cases in 1998, which fell to 54,287 in 2012
 - 80,184 FIRs in 2013 and 147,230 cases in 2014
- The reporting monopoly
- Obsolete emergency response mechanism
 - Legal impediments in single emergency response interface
 - Lack of investment e.g. MP 5-yr scheme (>Rs 800 crore)
- Rising expectations – Government at doorstep

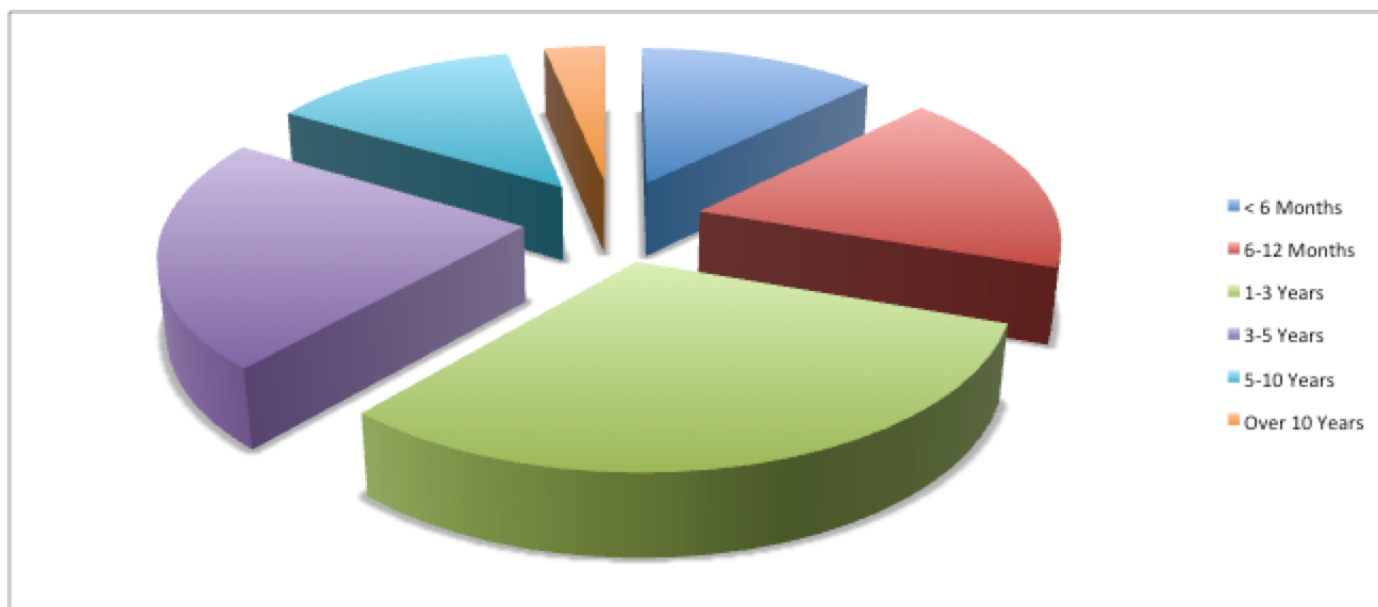
Disposal Of IPC Cases By Courts During 2013

Sl. No.	Crime Head	Total No. Of Cases For Trial Including Pending Cases from previous year	Cases With-drawn By Govt.	No. Of Cases				
				Compounded Or Withdrawn	In Which Trials Were Completed			Pending Trial at the end of the year
(1)	(2)	(3)	(4)		Convicted	Acquitted Or Discharged	Total {(6) + (7)}	(9)
1	MURDER (Sec.302 IPC)	192054	7	92	7768	13515	21283	170679
2	ATTEMPT TO COMMIT MURDER (Sec. 307 IPC)	168753	0	312	5050	13905	18955	149486
3	C.H. NOT AMOUNTING MURDER (Sec.304 , 308 IPC)	19471	0	22	800	1541	2341	17108
4	RAPE (Sec. 376 IPC)	114785	2	221	5101	13732	18833	95731
12	CRIMINAL BREACH OF TRUST (Sec.406-409 IPC)	99804	14	583	1755	5718	7473	91748
13	CHEATING (Sec.419,420 IPC)	302922	28	3213	6004	18718	24722	274987
14	COUNTERFEITING (Sec.231-254, 489A-489D IPC)	7728	0	7	272	447	719	7002
24	TOTAL COGNIZABLE CRIMES UNDER IPC	9781426	6558	194994	518126	772022	1290148	8296284

- Disposal percentage (~13%) and conviction rate (40%) are both low
- This is more so for 'heinous' offences like murder rape, as well as economic crimes.
- Anecdotaly, the age of the case is an important factor in its success.

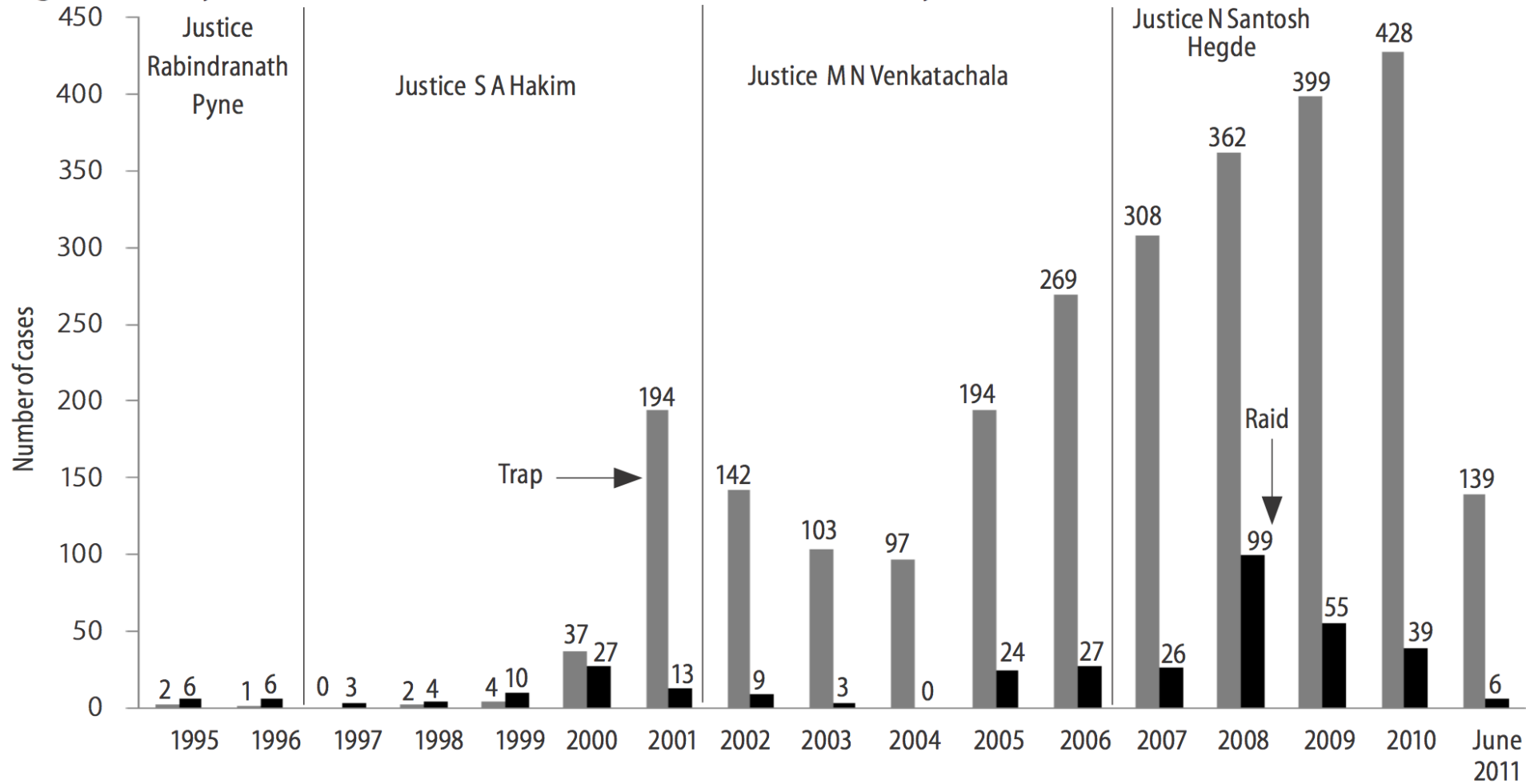
Duration of Completion of Trials by Various Courts

< 6 Months	6-12 Months	1-3 Years	3-5 Years	5-10 Years	Over 10 Years	Total
1,63,180	2,28,510	4,01,524	2,84,663	1,70,601	41,670	12,90,148



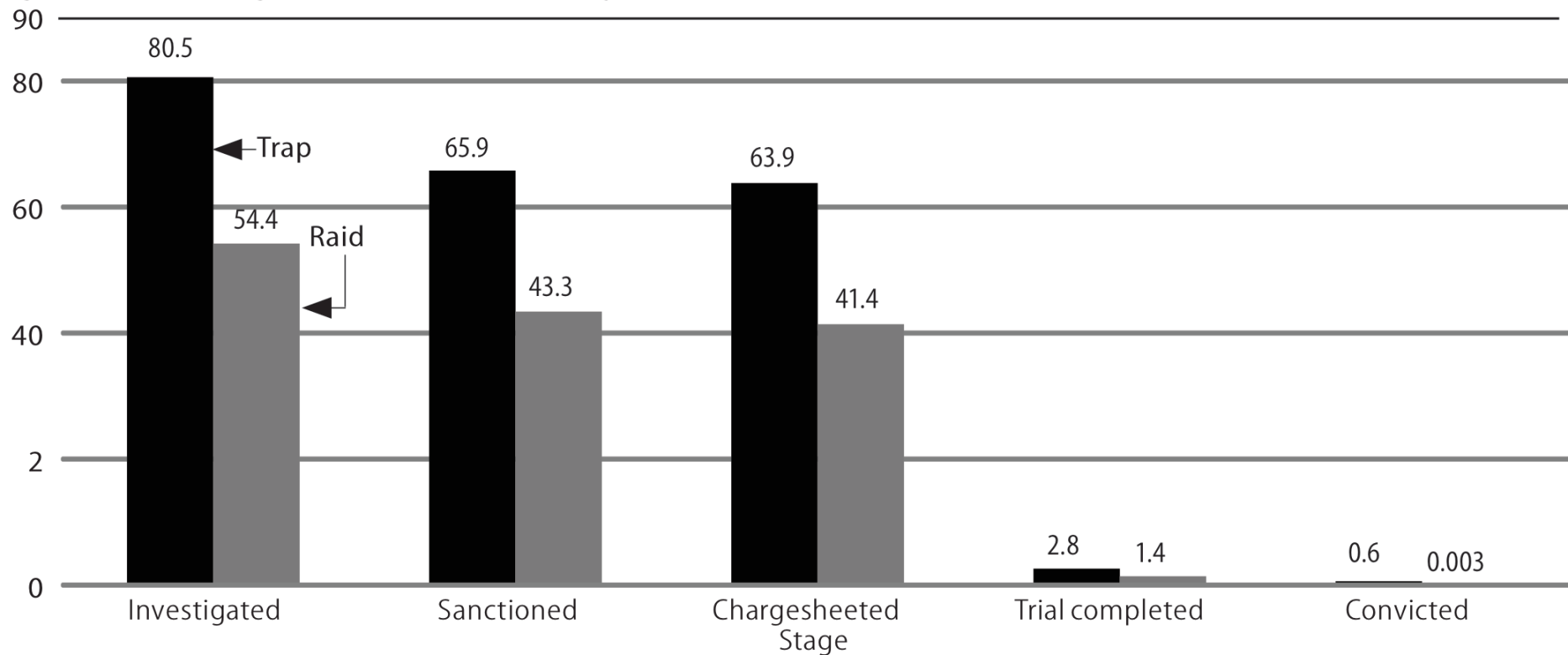
Karnataka Lokayukta Snapshot (2005-

Figure 2: Yearly Distribution of Cases Initiated under Karnataka Lokayukta Act, 1984



Slow trials blunt investigation

Figure 5: Processing Rate of Cases (as Percentage of Total Cases) (1995-2011)



Significant Indicators

- Average (Median) age of trap case pending investigation: 1.1 (1) year
- Average age of raid case pending investigation: 2.14 (2) year
- Average age of trap case under trial: 5.1 (4) year
- Average age of trap case under trial: 8 (6) year

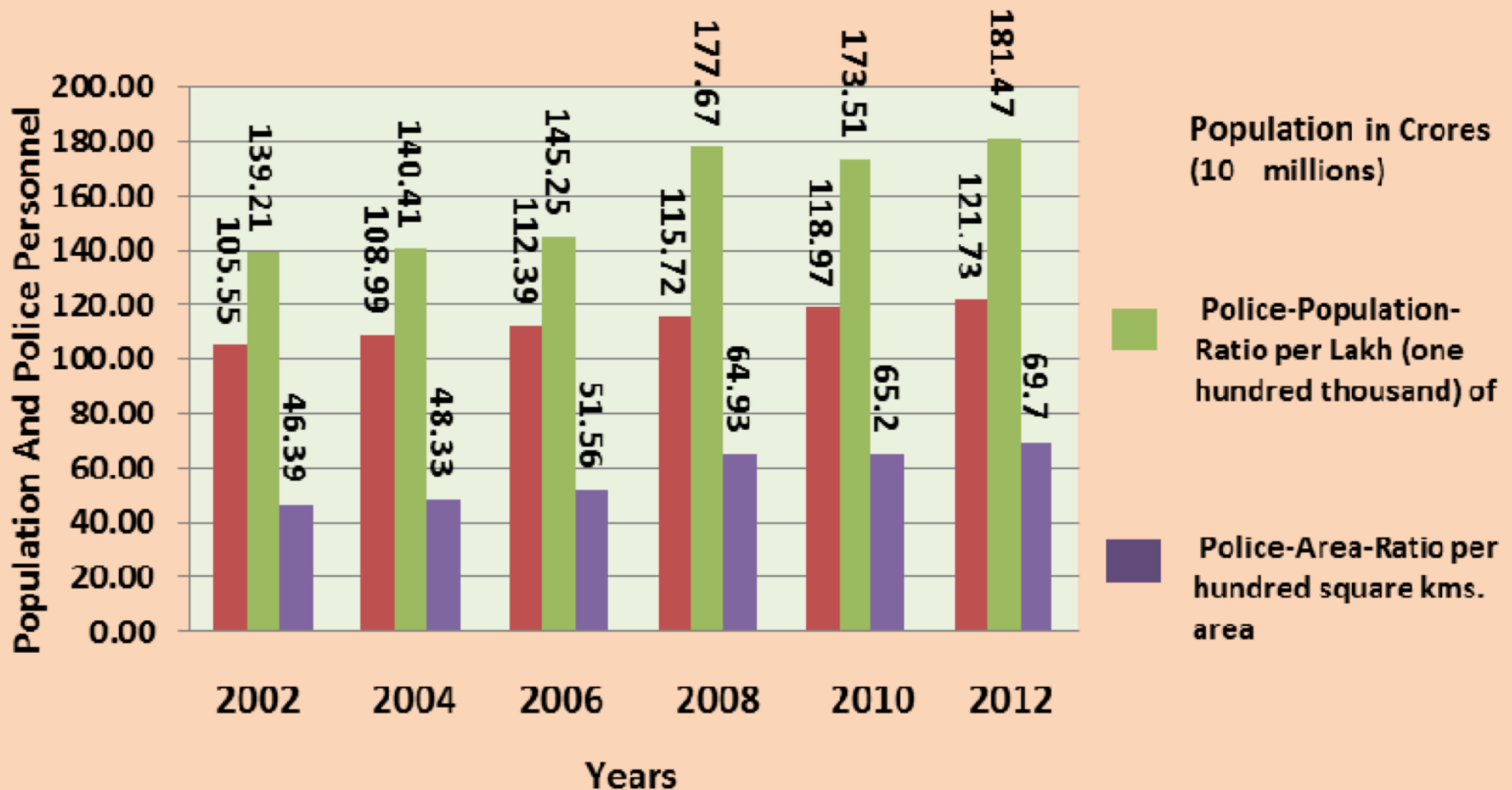
Resources

Human Resources in Police

Category	Supervisory Ranks	Field Officers (PI/PSI/ASI)	Support Staff (Constables)
Civil Police	12,185	1,91,433	11,45,366
Armed Police	2,104	24,456	3,55,933

- Vacancies stand at 25% of sanctioned strength
- By and large, civil field officers (11% of the strength) handle investigative work, in addition to their other responsibilities
- Maintenance of public order, VIP security and court appearances take precedence over investigation
- Quality of investigative work has deteriorated

Police population ratio has improved



Do we have enough policemen?

- Janagraha study in Bangalore
 - Estimated the actual requirement of policemen based on job analysis
 - fixed duty (guarding/patrolling/reception/wireless operation)
 - variable duty (investigation/verification)
 - special duty (elections, festivals, bandhs, Bandobast)
 - Policemen performing 14 hour shifts
- Banaswadi PS requirement at 621%
- Rajagopalanagar PS requirement at 457%

Revenue expenditure on police [% of total state government expenditure]

	Maharashtra	Haryana	West Bengal	Tamil Nadu
2004-05	21181.4 [3.0]	5927.1 [4.1]	11808.9 [3.5]	11458.2 [2.7]
2005-06	23042.0 [3.3]	6451.2 [4.4]	12557.5 [3.1]	12265.3 [3.2]
2006-07	25541.1 [3.2]	6903.5 [3.5]	13894.2 [3.4]	14327.5 [2.8]
2007-08	29570.2 [3.7]	7736.8 [3.5]	14810.6 [3.1]	15643.5 [2.8]
2008-09	35855.4 [3.6]	10652.3 [4.0]	16690.2 [2.7]	19665.0 [2.9]
2009-10	47154.5 [4.0]	13901.6 [4.3]	26960.9 [3.9]	23672.2 [3.2]
2010-11	57042.9 [4.4]	15699.4 [4.6]	29977.3 [4.1]	28586.2 [3.1]
2011-12	60379.3 [4.1]	15474.4 [3.9]	34766.9 [3.9]	32217.6 [2.9]
2012-13	79170.9 [4.6]	18814.1 [3.9]	40209.4 [4.0]	34307.6 [2.7]

Source: Details of state government expenditure, States of India, CMIE.

Salaries eat up the budget (Haryana Police 2014-15)

Category	Items/Sub Head	Amount (in Rs Crore)	Purpose
Manpower & Allied Items	Salary, Dearness Allowance, Wages, Traveling Expenses, Reimbursement Expenses, Contractual Services, Leave Travel Concession & Ex-Gratia	2347.71	For payment of Salary and allowances.
Supporting Service Items	Motor Vehicle, Office Expenses, Minor Works, Rent Rate & Taxes, Other Charges, Petrol Oil & Lubricants, Secret Service Expense, Welfare of Police Personnel, Information & Technology and 800-Other HPHC-Grant-In-Aid.	167.35	For maintenance and repair of available office buildings, vehicles & deployment charges of CISF.
Capacity Building	Modernization of Police Force & Material & Supplies	57.96	Purchase of new equipment, vehicles & construction of new buildings
	Total	2573.01	

Going beyond subsistence policing

- State police is a vastly underfunded department
 - Maharashtra government employees: 6.37 lakh
 - Of which, police personnel: 2.10 lakh (33%)
 - Whereas, expenditure on police ~ 4%
 - Of which, 98% goes to salaries and opex
 - 2% left for modernisation and training
- Lack even planning capacity for transformative initiatives
 - Most DGPs do not have adequate financial delegation

Way Forward

Framework for Police Performance

- Governance
 - Stable tenures
 - Bipartisan oversight
 - SC judgement on State Security Commission, comprising of CM/HM, Opposition Leader, Retired HC Judge, CS, civil society
- Police Establishment Board/Police Complaints Authority
- Segregation and Specialisation
 - Separation of investigation from public order maintenance
 - NPC recommendations/SC judgement
 - In phases, starting with cities of 10 lakh and above

Process Improvements - I

- Tweak Criminal Justice System for seamless throughput
- Improve investigation SOPs through a national Police Standards board
- Improve measurement of performance, using more granular MIS through CCTNS and other system output
 - Also, devise independent Crime Victimisation Surveys
- Create forensic support units, including data analytics

Process Improvements - II

- Improve Court Capacity (Law Commission Report No. 245)
 - Clear backlog in three years
 - 38% cases came from traffic challans: Need special courts in two shifts
- Re-engineer the trial process
 - Reduce adjournments
 - Set aspirational timelines
- Promote Collaboration among relevant stakeholders
 - Police
 - Prison
 - Judiciary
 - Lawyers
 - FSL

People Improvements

- Increase the number of investigators
- Improve training content and refresh frequency
- Promote specialisation
 - Special units on cyber crime/economic offences/body offences
- Recognise professionalism by creating standard protocols and external auditing
- Create inter-state coordination units

Technology Infrastructure

- Electronic communication across all stakeholders
 - Will overcome delays in process execution
- Reduction of paperwork
- Digital tools for data visualisation and case management
- Forensic databases
 - Fingerprints, DNA, ballistic markings, paint/glass, shoe prints, tyre marks

Special Investigations

- Prevention of Corruption Act
 - Developmental expenditure is badly affected by corruption, requiring effective specialised agencies
- Cyber Crimes
- Inter-state scams: MLM/Ponzi schemes
- Organised financial crimes
 - Entertainment/software piracy
- Money laundering
- Market manipulations
- Narcotics/tax evasion
- Issues
 - Multiplicity of agencies leads to turf wars/patchy treatment
 - CBI: Tenuous existence
 - State ACB: Inconsistent effectiveness

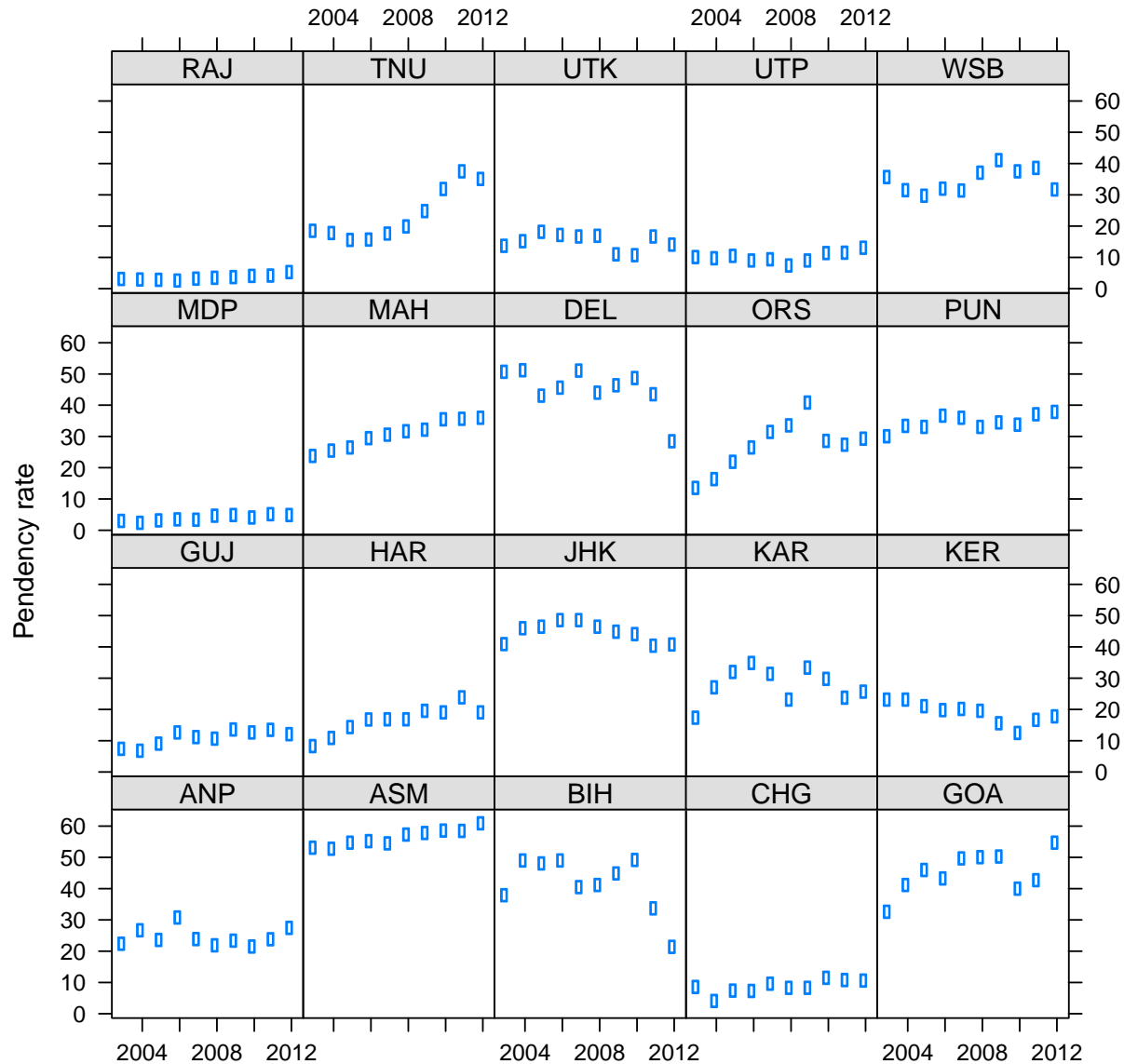
In Summary

- Difficult to overcome the constraint of Constitutional Lists
- Treat Criminal Justice System holistically for ensuring Rule of Law
- Possible to optimise important parts (for the short run)
 - Criminal trials involving elected representatives
 - Specialised units and courts dealing with economic crimes
 - Violent crimes against women
- Make adequate investments in quantity and quality of investigative resources and trial courts

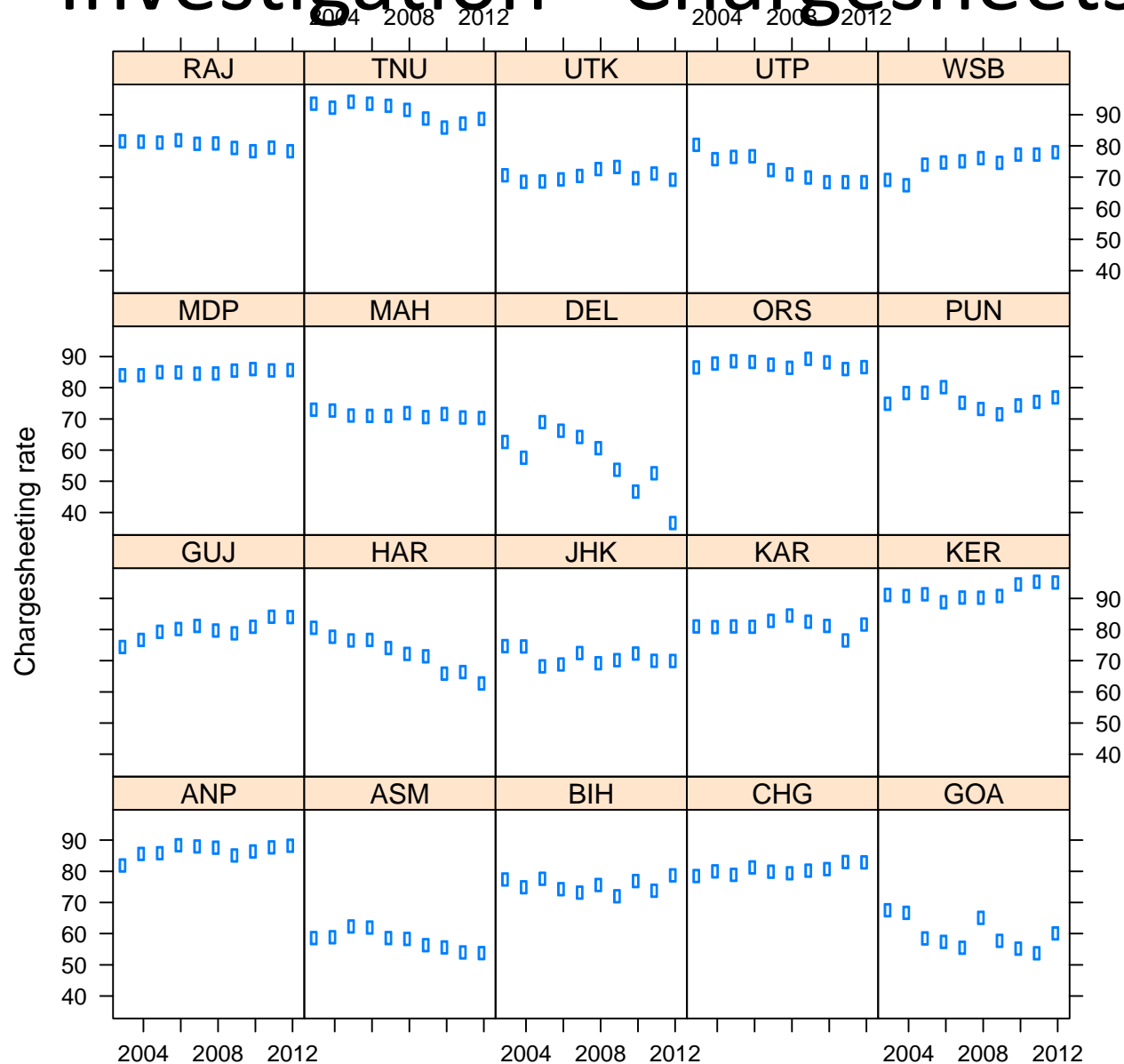
QUESTIONS?

Backup Slides

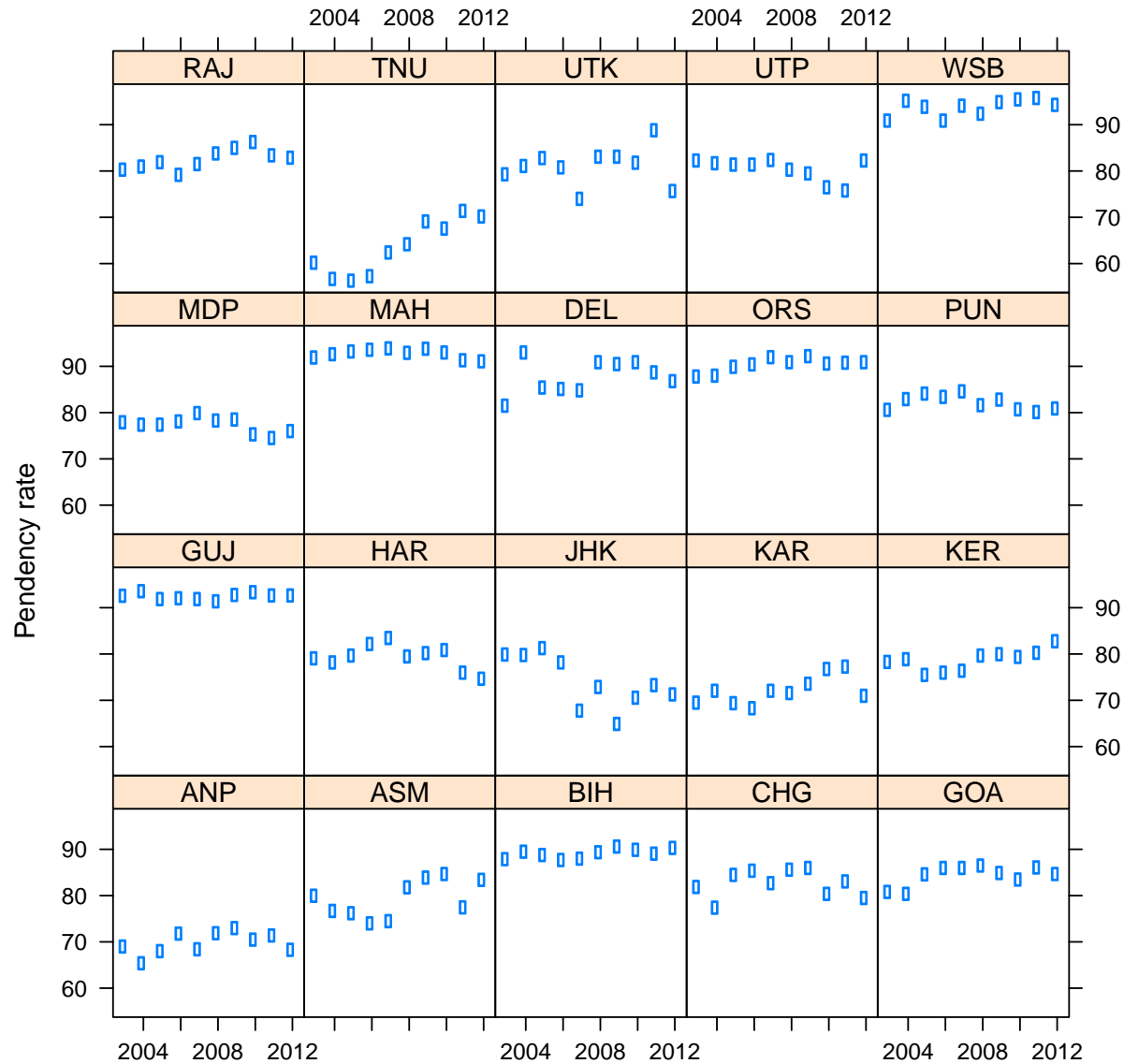
Investigation - Pendency



Investigation - Chargesheets



Courts - Pendency



Courts - Conviction

