

How economics can contribute to reducing crime

Simple economics tells us that if the rate of return on an economic activity is high, you get lots of it, if its low, you get less of it. If you do a cost benefit analysis on crime in South Africa at present you will find that the rate of return is very high. The only way in which crime can be reduced is to lower the rate of return.

Treating criminals better than victims?

The transition process itself has resulted in a human rights paradox – the Bill of Rights is better for criminals than for ordinary citizens or for the victims of crime. (For example, should a rapist with HIV cause his victim to get HIV, once imprisoned he is entitled to R40 000 worth of AZT treatment. His victim is not. In other words, criminals are treated better than victims. We treat people in prison better than we treat people out of prison.) While a Bill of Rights is desirable in a democratic society, it is also something criminals love. Alleged criminals now, quite rightly, have the right to trial, to legal representation, to due process etc. In other words, they are innocent until proven guilty. The problem arises after conviction of a crime.

When there is a human rights constitution or legal order, the biggest beneficiaries are actually the criminals. The gap between non-criminals and the law is smaller than the gap between serious criminals and the law and that means the criminals are the first and biggest beneficiaries are actually the criminals. The gap between non-criminals and the law is smaller than the gap between serious criminals and the law and that means that the criminals are the first and biggest beneficiaries of a human rights order. In a society that includes human rights you need a more not less intense response to crime. The paradox is that the assumption has been made with human rights we treat criminals better. That is not so – you treat people better until you *know* they are criminals. Then you respond intensely and they are seriously punished.

The ruling regarding the death penalty is based on the following logic: the constitution guarantees the right to life and therefore the death penalty is unconstitutional. However, if having the right to life means no death penalty, then presumably the right to freedom of movement means no prison sentences, and property rights mean no fines. Indeed, the logic by which the death penalty was abolished would be the logic to get rid of all forms of punishment as all forms are contrary to the Bill of Rights.

A Bill of Rights is a thing which protects people who are not criminals. Once you have been convicted of a crime, once you are a criminal, you no longer enjoy those rights – at least not all those rights and you need heavier sentences and more policing. The point is that when you make things better for criminals, you have to make things better for victims by an even bigger margin.

An explanation for the high crime rate

The following are *not* sufficient reasons for the high rate of crime in South Africa: poverty, *apartheid*, race values/patriotism, the absence of the death penalty.

The crime rate is *not* a function – worldwide – of how rich or poor people are or what the per capita income of a country is or the growth rate or the Gini Coefficient or anything else. The truly poor live in rural villages or squatter settlements are not the people responsible for the major crimes.

Apartheid also does not explain crime. The *apartheid* era had lower crime rates – including in black areas – than at present. In the National Crime Prevention Strategy (NCPS) document it says that it is the *legacy of apartheid* which is responsible for crime, but this seems to be a cop out.

The death penalty also does not explain high or low crime rates. Indeed, the introduction of the death penalty is often as a response to the high crime rate. Often countries that have the death penalty have high crime rates.

Transition probably is responsible for an increase in crime. As the NCPS document points out, crime rates have risen in almost all countries in transition – in South America, Eastern Europe, Northern Ireland and so on. In Hong Kong too we can expect transition to coincide with a higher crime rate.

Defining crime

What are crimes? Firstly, approximately 50% of all “crimes” are victimless. They include technical transgressions of government laws like licensing, zoning laws, minimum standard laws, precious metals and stones laws, drug, liquor, porn, prostitution laws, Forex, smuggling (tariff regulations), immigration etc.

SAPS work

South African police spend about 2/3 of their time filling in forms. That means you can get a 300% gain in the amount of time and effort police now spend in combating crime merely by deregulation (decriminalising victimless crimes) and specialisation / privatisation (getting someone else to do the paperwork).

Supply-side policing

The first thing to do is plug the loopholes. We assume in our crime fighting strategy, that we have to fight crime where and when it occurs i.e. where the crime is perpetrated. This is a really difficult place to fight crime as criminals are prepared and take precautions. We try, for example, to prevent cars from being stolen by getting better and better burglar alarms and better and better immobilisers and so on – making it better to steal a car by hijacking the vehicle.

The better place to fight crime is the outlet. Where do they sell the cars? Where do they sell things that are stolen? My research shows it is in fact easy to find out where the outlets are. All the police have to do is go into the business of being a buyer of stolen goods and then trace the goods back to the criminal. This is safer and more effective than fighting crime where it occurs. In addition, it reduces the ability to sell stolen goods and thus the rate of return. Simple economics tells you that you simply make the price of being a criminal less rewarding and that as a result there will be less demand for crime. If you destroy the market for stolen goods and crime in general, in other words if you work backwards from the outlet, the cost of crime increases and you get less of it.

Institutional aspects of crime

The following institutional changes should be implemented to help combat crime: devolution, right of recall, privatisation. These issues are not addressed in the NCPS document. Devolution addresses the issue of the different approaches required in, for example, a rural type village compared to the Waterfront in Cape Town. The right of recall, which allows citizens to fire incompetent or corrupt officials, ensures better policing. (e.g. Rodney King incident and the resignation under threat of recall of the police chief) Prisons should be privatised – this is already being done in South Africa, but could be done in such a way as to ensure that prisons become prosperous business ventures at no cost to the taxpayer or victim who currently bears the financial burden of punishing the criminal.

Sentencing

The question is bail or jail. The answer should of course fit the crime. We may decide there are certain crimes for which bail is not an option (although the discretionary power of judges, in my

view, should not be undermined). Sentencing is costly and unpleasant as opposed to pleasant. Once convicted of a crime, the criminal should find the punishment unpleasant.

Punishments imposed should be vigorously enforced. In other words, if there needs to be any revision to sentence the original judge should be involved in any reduction of the severity of the sentence.

Then we should have victim-friendly law. There is no such thing as crime – which is a socialist concept in that crime is defined as a wrong against society. There are civil wrongs, delicts or torts. If you wrong someone, if you violate someone's rights. If there are criminal courts, however, and you call certain things crimes, at least we have to have victim-friendly responses. Victims at present get punished once by the criminal and then once by the state through having to spend days in court and paying for the luxury of the prison. Rather than sending someone to prison the concerns should be compensating the victim. How do you compensate the victim? One way would be to force criminals to do something productive in prison so that they can pay damages in instalments to the victim. There is provision for compensation in the criminal justice system, but it is seldom used and victims have to rely on civil cases to gain compensation.

National Crime Prevention Strategy

There is quite a lot that is good in the NCPS document. For example, it addresses the question of bail and sentencing being inadequate. It also suggests that people should not be imprisoned for minor offences as this teaches them merely to be better criminals. It also suggests that an integrated approach is essential – in other words, one cannot simply solve the problem of policing as Meyer Khan has been asked to do, but need to look at the other aspects of crime solving i.e. justice, correctional services etc.

The bad things in the NCPS document are that it accepts that the things that we now call “crime” will continue to be crime i.e. it does not delineate between real and victimless crime. It accepts to some extent the status quo, arguing only that it needs improvement and not for innovative institutional arrangements. There is nothing in it at all about the economics of crime. It does not recognise crime as a supply-demand issue at all. There is nothing about community empowerment and what local communities can do to combat crime effectively.

Conclusion

Economics tells us more about what causes crime and more about how to combat crime than normal criminal jurisprudence and criminology does.

References

National Crime Prevention Strategy Document

Becker, G (1966) “Crime and Punishment: An economic approach” JPE

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