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11 June 2020

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India: Police databases and criminal tracking, including relationship with the Aadhaar systems and tenant verification; capacity to track persons through these systems (2019-June 2020)

Research Directorate, Immigration and Refugee Board of Canada

1. Overview

A *Country Information Report* on India by Australia's Department of Foreign Affairs and Trade (DFAT) states that India "does not have a centralised registration system in place to enable police to check the whereabouts of inhabitants in their own state, let alone in other states or union territories" (Australia 17 Oct. 2018, para. 5.20). Hanif Qureshi, the Inspector-General of Police in the state of Haryana, indicates that India does "not have any national [database] of criminals or gangs against which suspects can be identified" (Qureshi 9 Jan. 2020). The same source further indicates that police systems between districts and states are not integrated, creating "[i]slands of technology" which can only communicate within a state or district (Qureshi 9 Jan.

2020). Qureshi describes that a police officer issuing a traffic ticket would not be aware of the individual's traffic violation history in other states, and "mostly even within the state" (Qureshi 9 Jan. 2020). In correspondence with the Research Directorate, a Bangalore-based legal researcher, who has conducted research on artificial intelligence policy in India, stated that while India is adopting emerging technologies such as the Automated Face Recognition System (AFRS) [1] and artificial intelligence, these systems "do not really work" (Legal Researcher 27 May 2020). MediaNama, a news website focusing on technology policy in India, states that, as of 21 May 2020, the deadline for submitting a bid to build the AFRS has been delayed for the eighth time (MediaNama 21 May 2020).

2. Police Databases and Criminal Tracking

2.1 Capacity to Track Persons Through Police Databases

In correspondence with the Research Directorate, a professor of criminal justice at the Indiana University Bloomington stated that the Crime and Criminal Tracking Network and Systems (CCTNS) is "not very effective" in tracking individuals across India as it has yet to be implemented in many states, and is in different stages of implementation in states which have CCTNS (Professor 29 Apr. 2020). An article on information sharing in the criminal justice system by Sushil Kannan, a joint assistant director of India's National Crime Records Bureau (NCRB) [2], published in the *NCRB Journal*, similarly states that the CCTNS has "considerable version [and] structural difference[s]" between states, "particularly in the advance States" such as Gujarat, Karnataka, Andhra Pradesh, Telangana and Tamil Nadu (Kannan Oct. 2019, 9).

According to Qureshi, CCTNS are available only through desktop computers, instead of mobile platforms, except for "a few exceptions in some states" (Qureshi 9 Jan. 2020). A 2019 joint report on the *Status of Policing in India* by Common Cause [3] and the Lokniti research program at the Centre for the Study of the Developing Societies (CSDS) [4] indicates that, according to a survey conducted among close to 12,000 police "personnel of all ranks," across 21 Indian states and various social groups, 68 percent of police reported that they "[a]lways" have access to a working computer at their workplace and 55 percent reported that they "[a]lways" have access to functioning CCTNS software (Common Cause and CSDS 2019, 12, 44, 70-71). The same source further reports that the states which report the most access to functioning CCTNS are

Chhattisgarh, Telangana and Punjab, while Bihar, West Bengal and Assam report the lowest access to functioning CCTNS at the workplace (Common Cause and CSDS 2019, 71).

An October 2018 paper on the CCTNS by four representatives of the NCRB, published in the *NCRB Journal*, describes the following challenges in the implementation of the CCTNS:

- inaccurate data entry results in "low quality data" and "sometimes hinders" the production of adequate reports, and search queries;
- some First Information Report (FIR) registering agencies, such as the Central Bureau of Investigation (CBI) and National Investigation Agency (NIA), are not covered by the CCTNS, leading to an incomplete database of crime record;
- "no unique identifier" is assigned to persons arrested and unidentified bodies;
- some states, such as West Bengal, are not sharing "complete data" leading to an incomplete database (Kumar, et al. Oct. 2018, 5-6).

For additional information on the implementation status of the CCTNS and the capacity of police to track persons of interest, see Response to Information Request of IND106120 of June 2018.

2.2 Information Sharing Across States and Union Territories (UTs)

Sources indicate that the CCTNS is separated into a central and state component; the central component is responsible for hosting data from across the country in a National Data Centre (NDC) and providing a Core Application Software (CAS) for capturing data (*Governance Now* 23 June 2018; *Express Computer* Feb. 2016), which enables the creation of a national database with search functionality (*Governance Now* 23 June 2018). According to a February 2016 article in *Express Computer* magazine [5], police stations in different states and UTs are connected to their own data centre, called the State Data Centre (SDC); in turn, data from the SDCs are uploaded to the NDC (*Express Computer* Feb. 2016). A Ministry of Home Affairs memorandum dated 30 November 2015 and issued to states and UTs provides that "[o]nly those States/UTs which share data with NDC will have access to the National level [d]atabase and related reports. This will enable real time Search and Query on National crime

data" (India 30 Nov. 2015). Sources indicate that the implementation of the state component is "mostly in place" (*Express Computer* Feb. 2016) or "almost over" (*Governance Now* 23 June 2018).

Governance Now [6] states that implementation of the NDC was delayed due to software incompatibility and was "idle" in 2017 (*Governance Now* 23 June 2018). The same source further indicates that, as of June 2018, the searchable database was accessible by central investigation agencies, but access by police in some states were limited to "state nodal officers"; investigation officers (IOs) at police stations in Chandigarh, Chhattisgarh, Delhi, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Punjab, Telangana, Uttar Pradesh and Assam have access to the national database, but IOs in other states did not yet have access (*Governance Now* 23 June 2018). According to the CCTNS Pro-Active Governance and Timely Implementation (Pragati) dashboard [7] of 31 March 2020, 91 percent of police stations are able to conduct searches on the national database (India 31 Mar. 2020, 2). In the "detail of success stories/good practices" section of the Pragati dashboard of 30 October 2018, Punjab police described one search of an accused conducted on the NDC, which found four FIRs, including one "interstate" FIR (India 30 Oct. 2018).

2.3 Information Captured on the CCTNS

A paper on "smart policing" by Shivangi Narayan, a PhD student of the School of Social Sciences at Jawaharlal Nehru University, who researches "digital identification systems" in policing (The Polis Project 30 Jan. 2020), states that the CCTNS records data from FIRs, the "daily diary" and the "general diary" (an account of the daily functioning of the police station)" (Narayan 4 Sept. 2017, 2). The same source further indicates that most crime data in police stations comes from complaints, of which only a portion is recorded on the FIR, and the rest are not recorded in the CCTNS (Narayan 4 Sept. 2017, 2).

According to the *NCRB Journal* article by Kannan, there are a total of twenty-four forms, including seven major Integrated Investigation Forms (IIF), which are used to capture information on suspects or accused in the CCTNS (Kannan Oct. 2019, 3). The Pragati dashboard of 31 March 2020 names the following IIF which are entered into the CCTNS:

- First Information Report (FIR), IIF1;
- Crime Details Form, IIF2;
- Arrest/Court Surrender Form, IIF3;
- Property Search and Seizure Form, IIF4;

- Final Form/Report, IIF5;
- Court Disposal Form, IIF6;
- Result of Appeal Form, IIF7;
- Missing Person Registration, IIF8;
- Unidentified Person Registration, IIF9;
- Registration of Unidentified Dead Body, IIF10;
- Registration of Unnatural Death, IIF11 (India 31 Mar. 2020).

The same source states that 80 percent of information from IIF1 to IIF6 are entered into the CCTNS nationally and 56 percent of information from IIF8 to IIF11 are entered into CCTNS (India 31 Mar. 2020). Narayan states that there are inconsistencies with the statistics on the Pragati Dashboard; for example, Narayan describes that on a 2017 Pragati Dashboard, Delhi reports that 80 percent of police stations were entering information on IIF1 to IIF 5 on the CCTNS and 30 percent were entering information on IIF 6 to 7, but subsequent pages on the same dashboard indicate that Delhi was entering 100 percent IIF 1 to IIF 7 on CCTNS (Narayan 4 Sept. 2017, 2). Templates of IIF1 to IIF7, published on the NCRB website, are attached to this Response.

3. Relationship Between Aadhaar and Police Databases

For information on the Aadhaar number and its uses, see Response to Information Request IND106095 of May 2018.

Sources indicate that the director of the NCRB proposed that the police be granted "limited access" to Aadhaar data to help catch first time offenders and to identify bodies (PTI 22 June 2018; *The Economic Times* 22 June 2018). The Press Trust of India (PTI), an Indian news agency, quotes a statement issued by the Unique Identification Authority of India (UIDAI) in response to the NCRB proposal indicating that "the use of or access to Aadhaar biometric data for criminal investigation is not permissible under Section 29 of the Aadhaar Act, 2016" and that Section 33 provides "very limited" exception (PTI 22 June 2018). The *Economic Times*, an India-based financial newspaper (Times Internet n.d.), quotes the UIDAI, which states that it has "never shared any biometric data with any crime investigating agency" (*The Economic Times* 22 June 2018).

Section 33 of the *Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016* provides the following:

33. (1) Nothing contained in sub-section (2) or sub-section (5) of section 28 or subsection (2) of section 29 shall apply in respect of any disclosure of information, including identity information or authentication records, made pursuant to an order of a court not inferior to that of a District Judge:

Provided that no order by the court under this sub-section shall be made without giving an opportunity of hearing to the Authority.

(2) Nothing contained in sub-section (2) or sub-section (5) of section 28 and clause (b) of sub-section (1), sub-section (2) or sub-section (3) of section 29 shall apply in respect of any disclosure of information, including identity information or authentication records, made in the interest of national security in pursuance of a direction of an officer not below the rank of Joint Secretary to the Government of India specially authorised in this behalf by an order of the Central Government:

Provided that every direction issued under this sub-section, shall be reviewed by an Oversight Committee consisting of the Cabinet Secretary and the Secretaries to the Government of India in the Department of Legal Affairs and the Department of Electronics and Information Technology, before it takes effect:

Provided further that any direction issued under this sub-section shall be valid for a period of three months from the date of its issue, which may be extended for a further period of three months after the review by the Oversight Committee. (India 2016)

According to PRS Legislative Research, an independent, not for profit research initiative which provides information specific to the Indian Parliament (PRS Legislative Research n.d.), an amendment passed in June 2019 changed the disclosure of information requirement in section 33(1) of the *Aadhaar Act* from orders made by a District Court to that of a High Court or above and the requirement of disclosure of information in the interest of national security under the directions of an officer not below the rank of Joint Secretary was amended to an officer not below the rank of a Secretary (PRS Legislative Research 25 June 2019). For additional information on legislation and government decisions regarding the use of the Aadhaar to track individuals, see Response to Information Request IND106095 of May 2018.

Sources indicate that the Indian Home Minister stated that 1,100 people [who participated in a riot (MediaNama 11 Mar. 2020)] in Delhi were identified through facial recognition technology using information from voter ID, driver license information and "other government data" (MediaNama 11 Mar. 2020;

Legal Researcher 27 May 2020). According to a notice to the Delhi police from the Internet Freedom Foundation (IFF), an India-based charitable organization focused on "free speech, digital surveillance and privacy" (IFF n.d.), orders of the High Court of Delhi directed facial recognition technology be used for tracking missing children only, and there is no legal basis for the use of facial recognition technology in the "public domain" (IFF 28 Dec. 2019). The legal researcher stated that

[the example in Delhi] provides enough evidence that the ability to bridge and match data against the large biometric databases is there, and the government is willing to use it in the absence of any legal basis and own up to it publicly. (Legal Researcher 27 May 2020)

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to an article in The Wire, a non-profit news site based in India (The Wire n.d.), written by Anand Venkatanarayanan, a security researcher who has written about the Aadhaar (Nullcon n.d.), police department do not need the UIDAI to conduct searches using Aadhaar numbers; instead, the police can ask organizations that own various databases to provide them with information, provided the police have the suspect's Aadhaar number (The Wire 16 Aug. 2018). Venkatanarayanan provides the example of the police asking local banks for information associated with an Aadhaar number (The Wire 16 Aug. 2018). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to an article in Scroll.in, a news, information and entertainment site which focuses on "political and cultural stories" of India (Scroll.in 18 Aug. 2017), rather than relying on the Aadhaar database, police in the states of Telangana, Madhya Pradesh and Rajasthan are building "Aadhaar-like" databases of individuals who have criminal records or have been placed on police department "black lists" within these states (Scroll.in 7 Aug. 2018). The same source quotes the Superintendent of Police in Gwalior, a city in Madhya Pradesh, as stating the following:

[the database] can solve two problems: first, nabbing offenders using multiple identities to mislead police; second, swiftly tracking down offenders of one district who commit crime in another and dodge the police because of lack of scientific tools which could nail them down instantly. (Scroll.in 7 Aug. 2018)

Sources indicate that in January 2018, the Telangana police verified the addresses of individuals with a criminal record from the past ten years, and collected information such as photographs and fingerprints, which were entered into a database (*Telangana Today* 17 Jan. 2018; *Hindustan Times* 18 Jan. 2018). An October 2017 article in News18, a news site jointly managed by CNN and TV18, an India-based television broadcast network (News18 n.d.), indicates that police in Gwalior collected copies of Aadhaar cards and fingerprints from individuals with criminal records and recorded the information on the district server (News18 26 Oct. 2017).

4. Relationship Between Police Databases and Tenant Verification

According to the Professor, since a national Indian database does not exist, tenant verification is "extremely limited" due to the volume of workers who have migrated to large cities (Professor 29 Apr. 2020). *India Today*, an India-based weekly magazine (The India Today Group n.d.), quotes LN Rao, a former deputy commissioner of police in Delhi, as stating that tenant verification is "'done only for the psychological satisfaction, not for actual background check ... the cops don't make any effort to follow up with the concerned police station of other states" (*India Today* 8 Aug. 2018).

The *Indian Express*, a Mumbai-based English-language newspaper, explains that in Chandigarh, after the police receive tenant verification forms, the forms are sent to the district police superintendents for "the authentication of names, addresses, criminal background[,] etc." (*The Indian Express* 23 July 2019). The same source quotes a Station House Officer (SHO) [8] speaking anonymously as stating the following:

We also send the Information Sheets directly to the area SHOs in the particular cases, in which the jurisdiction of police station along with its name is mentioned. It is a lengthy process. We often shortly receive reply on the backside of the Information Sheets from neighbouring states including Haryana, Punjab, Himachal and even New Delhi. But there is a long wait from the side of faraway states like UP, Bihar, West Bengal etc. Once the Crime and Criminal Tracking Networks and Systems (CCTNS) is implemented throughout the country, the process will become more easier. (*The Indian Express* 23 July 2019)

Further and corroborating information on the usage of police database during tenant verification could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

5. Prevention of Tampering with CCTNS Data

Narayan states that "[c]orrupt police practices include tampering with" physical copies of FIRs and the complaint register, but that as of 2017 it is "impossible" to change an FIR once it has been entered into CCTNS, which is considered a felony (Narayan 4 Sept. 2017, 3). Similarly, *the Times of India*, an Indian English-language daily newspaper, states that the CCTNS would prevent police officers from "manipulating" the station diaries as it cannot be edited once filled out online (*The Times of India* 26 Oct. 2019). *DT Next*, a Chennai-based English language newspaper (*Business Standard* 29 Oct. 2015), quotes a judge, in a court case regarding car accident information being filed first in hardcopies prior to being uploaded to the CCTNS in contravention of a Supreme Court order, as stating that "[i]t is obvious that police officers are in league with some vested interest" and have allowed some parties to capture information on the hardcopy forms (*DT Next* 21 Dec. 2018). The same source indicates that the judge ruled that if the court discovers similar acts in the future, it will order an investigation into those involved (*DT Next* 21 Dec. 2018).

Information on safeguards to prevent or consequences for misuse of the CCTNS to pursue individuals could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] Sources indicate the Automated Facial Recognition System (AFRS) will use photos, digital images, videos and other sources to compare to facial features in an "existing image database" (*The Times of India* 12 Feb. 2020; *Sunday Guardian Live* 7 Mar. 2020).

[2] The National Crime Records Bureau (NCRB) is a government agency that acts as a "repository of information on crime and criminals" and is responsible for the CCTNS (India Mar. 2017).

[3] Common Cause is "registered society" seeking to "promote democracy, good governance and public policy reforms through advocacy, interventions by formal and informal policy engagements" (Common Cause and CSDS 2019, 186).

[4] The Centre for the Study of the Developing Societies (CSDS) is an India-based research institute of social sciences and humanities; Lokniti is a research program of the CSDS, which seeks "to engage with national and global debates on democratic politics" (Common Cause and CSDS 2019, 186).

[5] *Express Computer* is an India-based publication which covers technology and eGovernance (*Express Computer* n.d.).

[6] *Governance Now* is an India-based magazine which reports on "governance of all institutions and processes that are vital to public life in India" (*Governance Now* n.d.).

[7] The Pro-Active Governance and Timely Implementation (Pragati) dashboard is a monthly report on the status of CCTNS published by the NCRB (Common Cause and CSDS 2019, 28).

[8] Station House Officers (SHO) are authorized to register complaints and criminal cases (*The Times of India* 1 Jan. 2018).

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Attachment

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