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Dealing with Violent Civil Protests in India

Kriti M Shah*Srinagar, 2016.***ABSTRACT**

The citizens' right to protest is a pillar of Indian democracy. While citizens are allowed to peacefully assemble, however, protests and demonstrations sometimes take a violent turn; recent examples are the Jat protests in Haryana and the Kashmir unrest following the death of militant leader Burhan Wani, which both happened in 2016. During such occasions, it is the prerogative of the Indian state to deal with the violent civil protests in a manner that ensures public order and protects citizens from harm. This paper discusses the use of force by security officials during periods of violent civil unrest and seeks to understand the ways and means of dealing with such protests in the country.

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INTRODUCTION

India witnessed two large-scale, violent civil protests in 2016—the Jat quota agitation in Haryana in February 2016 and the protests that followed the killing by security forces of Hizbul Mujahideen leader Burhan Wani in Kashmir in July 2016. While the two mass actions differed in both their causes and intended goals, they were nonetheless similar in that the state government's response to the protests was heavily criticised. In February 2016, the state of Haryana experienced a lockdown as members of the Jat community sought political and economic reservations from the government. In parts of the state, protesters clashed with security forces, killing over 30 people. A few months later, the death of militant leader Burhan Wani sparked mass civilian protests in Kashmir. Security forces were criticised for their use of excessive force against a crowd that engaged in stone-pelting and arson. The use of pellet guns to disperse the crowd caused over 90 deaths and injured many others. These events raised questions on the overarching strategy and effectiveness of India's crowd-control measures—issues which are not new but remain relevant to this day.

In a country like India characterised by a number of religious, ethnic, language and caste divisions, the police are regularly confronted with large-scale protests, riots and incidents of mass civil disorder. In such events of unrest, protesters may react in a violent way against police and security forces, property, or other civilians. It is therefore essential to discuss and deliberate on the ways and means to deal with violent civil protests.

Traditionally, in India, police have used *lathis* or batons, water cannons and teargas to disperse an unlawful assembly. While these methods may have their own merits, it is important to look at those instances where the police have used tactics and equipment in a manner that is excessive or harsh. The conversation must focus on understanding the lessons learnt from civilian protests that begin peacefully but eventually regress to violence and result in high casualties.

Keeping in mind the recent events in Haryana and Kashmir, the government should re-examine the methods and tactics used by the police when dealing with civil unrest. While the causes for unrest breaking out in Haryana and Kashmir may have been different, both events witnessed the eruption of violence; the lessons learnt from either state can be shared with the other, and on a national scale as well. Therefore, conscious of the fact that the law and order situation in Kashmir is of an extraordinary nature, this paper seeks to discuss what law enforcement officials can do to improve their policing techniques when civil protests turn violent. What is the role of the police in dealing with violent protests? What equipment or non-lethal weapons should the police use? How can security forces ensure that their response to violence is proportional and fair? These are some of the questions that were raised at a workshop led by Trinath Mishra, who has over 37 years of experience in the police and has served as the Director General of the CRPF, CISF and the Director of the CBI. This paper builds on those questions and the key themes discussed during the workshop that was organised by the Observer Research Foundation in December 2016.

VIOLENT CIVIL PROTESTS IN INDIA

Article 19 of the Indian Constitution protects freedom of speech, allowing citizens, for one, the right “to assemble peaceably and without arms.” This includes the right to form associations, hold meetings, and come out in processions. The Constitutional right to assembly is, however, subject to certain regulations contained in a number of laws, such as the Indian Penal Code, the Criminal Procedure Code, and the Police Act of 1861. These laws empower the government to impose certain “reasonable restrictions” on the right to assemble, if such assembly is likely to lead to a disturbance in public peace and order or if it poses a threat to national sovereignty. With this, the Constitution seeks a balance between the freedom of speech guaranteed in Article 19 (1) (b) and social order as defined in Article 19 (3).

The police also have the duty to control and regulate crowds while providing citizens the space and peace to exercise their right to assembly. However, there are times when the protest takes a violent turn, either among the protesters or between them and the police. The risk of a protest turning violent has increased in recent times. A political decision in Delhi can trigger a reaction in a part of the country, which in turn can cause another reaction somewhere else. Social media and instant messaging have made it possible for information (and misinformation) to spread like wildfire, causing havoc for civilians and posing problems for law enforcement officials.

Article 246 of the Constitution places 'public order' and 'police' under the jurisdiction of the state. This gives each state government full legislative and administrative powers over the police. Each state's police force has two components: the civil police and the armed police. While the civil police control crime, the armed police are specialised police units that deal with extraordinary law and order situations. They are organised in the form of battalions which are used as striking reserves to deal with emergency situations arising in the state. Although matters of the police are a state subject, the Constitution empowers the central government to intervene in certain police matters in order to protect the state in times of emergency.¹ The Ministry of Home Affairs (MHA) can deploy Central Armed Police Forces (CAPFs) to the state to assist the state civil police and armed forces.²

While the deployment of additional forces such as the CAPFs to assist the state police is helpful, it is important for the central and state governments to draft policies and strategies that help these forces deal with violent unrest in an organised and lawful manner.

CROWD CONTROL: METHODS AND TACTICS

Drafting appropriate policies

When a protest is planned or announced in advance, police and security officials are able to plan an appropriate crowd-control strategy. Authorities normally anticipate

that such planned demonstrations may break out in violence for some reason; this gives the police enough space to prepare for containment of possible trouble and dispersal of the crowd, if necessary. It is the spontaneous gathering of people—as a result of a sudden event or incident—that poses more threat to the police. Thus it is important to draft a preemptive policy that will cover the different ways and means to deal with violent civil protests. This would enable police officers, paramilitary forces, and other law enforcement personnel to learn better techniques and strategies to deal with both peaceful and violent crowds within the ambit of the law. While policy is being drafted, it is important to keep in mind the ground realities of different protests and devise strategies accordingly. At a student protest, for example, security personnel must show utmost restraint and maintain composure during violent disturbances as police reaction to any provocation may easily cross the line and become excessive and in turn result in protesters turning more violent. During a political agitation, police aggression towards demonstrating citizens, or a clash taking a violent turn, could simply prolong the protest.³ Indeed, a violent mass of protesting students has to be dealt with differently than a crowd of political agitators. After all, these mass actions are held for different reasons, have different goals, and consist of different methods of agitation. It is imperative that the policies to deal with them are also different.

When drafting strategies for the police to deal with violent protests, five important elements must be considered: information, intention, method, logistics, and communication. Any strategy should take into account these elements. Police must acquire as much *information* as possible about the nature of the event, the grievances of the protesters, and other basic variables. For example, the policy on dealing with communal riots must be different from that on handling mass agitations. A mass agitation could be a student protest, a railway strike, a pro- or anti-reservation protest, or any other protest against the central or state government. These agitations may lead to protesters blocking a road or railway line. Protesters may engage in *dharna* or sit-in and threaten to not leave until their demands are met. Once they have obtained all the information about the agitation, police officers and other security personnel must also be briefed and trained on what their aims and objective are as law enforcement officials.⁴

Second, their *intention* should be clearly defined—i.e., are they dispersing the crowd or are they using force against civilians? Then, their *method* to achieve their intention should be discussed so that all security officers are aware of the organisational structure of the police and their different duties and responsibilities. In addition, *logistical* elements such as traffic routes, ambulances, proper equipment and gear should also be planned and prepared in advance. Equally important when dealing with a violent and agitated crowd is for the police to be keen on their *communication* with the public. This includes engaging in media briefings and issuing press releases that keep the public informed about the developments surrounding the protest, especially if the incident persists for a few days. Continued contact and communication between government, police officials, and the public will help in developing trust and will also allow the government to directly address any attempts at misinformation.

Sections 141 to 190 of the Indian Penal Code and Sections 149 to 151 of the Criminal Penal Code, provide a vast array of preventive and punitive action against those who participate in unlawful assemblies, even in cases where an unlawful assembly is still being contemplated. This allows for the preventive arrest of individuals if the police believe that they will indulge in violent activity. If the police's intention is to ensure that an agitation does not suddenly turn violent or threaten public and private property, it may adopt such a method, by arresting the first and second-line leaders of a mass movement in advance, thereby denying the protest its leadership. Police may also prevent agitators from gathering in one particular place and focus on posting adequate police reserves at strategic points, in order to deter violence.

Certain events of civil unrest in India are communal in nature, and violent communal crowds, protests and riots put a serious strain on the secular foundation of Indian society. India's history is stained with numerous religious and caste-based riots. Forces such as the Rapid Action Force (RAF) are a specially trained anti-riot force that are deployed to the most politically sensitive parts of the country. They are trained solely to manage gatherings that are communal in nature and maintain an unbiased attitude when dealing with civilians. When dealing with communal riots, policy strategies should include an immediate response to all situations with a communal implication, frequent press briefings to prevent distortion of news, protecting all places of worship, and maintaining a healthy interaction between all communities.⁵

Role of law enforcement and security personnel

During periods of severe civil unrest, state police forces are often inadequate to deal with the situation. State armed police face issues of manpower shortage, as well as lack of training and proper equipment, forcing state governments to seek help from the Centre which, in turn, deploys the CAPFs. The Union government avoids getting blamed for not coming to the assistance of the state; the state government steers clear of responsibility for any possible wrongdoing that may occur. Over the years, such an arrangement has left state police forces with little capacity to deal with violent civil protests on their own.

During the Jat quota protests in February 2016, both the CAPF and the Indian Army were deployed at the request of the panic-stricken Haryana government. The violence that ensued during the demand for quotas claimed over 30 lives and caused massive destruction of public and private property. The decisions made by the state of Haryana during the agitation set a glaring example of police failure at all levels. The police failed to handle the events in a proper manner—either showing indifference or, in some cases, being complicit in dealing with the rampaging mob. This led to the unravelling of even more violence. As the Haryana Police looked the other way, protesting groups of Jats were able to use earthmovers, among other heavy machinery, to dig up roads, block railway tracks, and loot commercial shops.⁶

In a report, the Prakash Singh Committee—set up to probe police and administrative failures after the protest—stated that the Army had sent 74 columns

to Haryana, roughly equalling 12 battalions. The report said, “It is a formidable strength, enough to ward off a small scale attack in a particular sector by an invading army. It is extremely unfortunate that Army had to be deployed on such a large scale to deal with internal disturbances.”⁷ The Committee also commented on the use of the Army by the state government, stating that it was “distressing” that the Army had not been properly utilised. The report describes particular incidents where the Army was misled into inaction by the local police, by not stopping a mob indulging in acts of destruction and vandalism. The committee also suggested that “states should have some battalions specially trained and equipped to deal with mobs.”⁸

The Jat protests are just one example of the multitude of challenges that arise during a violent civil unrest. While local police may be able to deal with simmering tensions in a locality for some time, calling in the CAPFs must be done with greater responsibility. Usually, when outside forces are called in, their inadequate understanding of the ground realities and local grievances only serves to worsen the situation. For example, the troops may not know the local language, inhibiting their ability to communicate properly with protesters.

Problems faced by police and security forces

When troops are deployed suddenly after violence has escalated or the state government forces have been overpowered, there are delays in understanding and formulating a proper strategy to deal with protesters due to confusion over specific roles, or planning and preparation on the part of civilian authorities. Non-local forces may also discover that their efforts to secure peace are being hampered by improper coordination, liaison and cooperation with local police. It is therefore important for civil authorities that have sought the assistance of outside forces to clearly delineate duties and responsibilities. There also may be problems arising out of command structures; this can be addressed by improving communication and liaison channels.

Adding more complexity is the politicisation of the Indian police forces. Local police often have their own political biases and affiliations which interfere in their ability to monitor and control civil unrest. The main features of the police system that exist today are based on the colonial legacy of the British and the Police Act of 1861. Although since independence a number of states have passed their own legislation that introduced changes in the state police forces, the lack of public accountability in the police structure remains largely unchanged. In the aftermath of the violence of Jat protests, the investigation report stated, “Our established institutions and the recognized hierarchy should be able to rise to the occasion, howsoever serious, and deal with it. The problems of the kind we all witnessed arose because institutions have been subverted, procedures have been corrupted and the police organization in particular has been politicized to an extent where it has become almost dysfunctional and incapable of handling very grave situations.”⁹ The fact that the country's internal security apparatus rests on the police force that is, in turn, managed by the political executive explains to a significant degree the inefficiencies that hobble its proper functioning.

Most states have their own police colleges and academies where training is directly imparted to recruited constables and police inspectors. Some of the courses include physical training, weapons trainings, maintenance of law and order, as well as crowd and riot control. However, these are part of the basic training course which may be a few months to a year long and taught along with other subjects. The Ministry of Home Affairs' Bureau of Police Research & Development (BPR&D) also runs a number of specialised courses for officers. However, even with these training schools, police training across India is allotted on average only one percent of total police expenditure.¹⁰

It is important that both at the central and state levels, the training of police in methods of crowd control is given adequate attention. This includes theoretical teaching about the nature of different types of protests, lessons from past experiences in dealing with such protests, as well as regular updated information about the ground realities in different areas that may be prone to unrest. This must be accompanied by field or outdoor training in which police and security forces study and apply classroom knowledge on the tactical principles in crowd control. These would depend on the type, size and militancy of the crowd. As P.P.S Sidhu, a retired IPS officer states, "Formations for mob control are based on standard infantry formations. If the constabulary is well drilled in these formations, no difficulty will be experienced in adapting the small variations required for efficient mob and riot control."¹¹

In his report, Sidhu describes the four basic formations for riot control, which include: column formation (which is used by police during riots to move from one point to another); line formation (which is used for blocking the mob's movement and is ideally suited when teargas is to be used); wedge formation (ideally suited for clearing an area or breaking up a crowd); and the diagonal formation (used to disperse the crowd in a particular direction).¹² These formations must be practiced in the field so that security forces are well-versed and comfortable using them in real-life situations. While such tactical principles can be taught through the use of a manual in a classroom, regular practice and training will help improve the police force, boosting their confidence when they are faced with a riotous mob. This must also be done with police forces using different non-lethal equipment that is sanctioned for crowd control. While the lathi has become a staple weapon of choice for police forces across the country, its use can be made more effective if police forces are trained well. When a call is made for a lathi charge, police tend to execute it haphazardly, hitting the protesters excessively and injuring scores. The police must realise that even if they are instructed to carry out a lathi charge, being in a proper formation along with fellow security forces, attacking with a lathi and then retreating back into formation, can be more effective both in minimising civilian injuries and in strengthening and defending the security forces as a unit.

The proper training of police and security forces is also important due to the shortage of personnel in the country. According to BPR&D's 2016 annual report, there are 549,025 vacancies in the police force in the country, including both the civil and armed police.¹³ The total number of CAPFs' strength is at 971,262, with the CRPF having the maximum number of personnel at 294,496. While there is a large

number of vacancies in the police force, this is due to institutional problems of hiring. Once a senior police officer retires, the state police administration begins the process of hiring. However, the hiring and subsequent training process takes time, leaving the force un-replenished. Other reasons why there is a constant shortage of personnel is due to financial and budgetary constraints and the fact that many training institutions are subpar. While forces may be hired, they are unable to receive the required training at a national or state training institution because of inadequate resources available there. During a civil unrest situation, therefore, the number of police forces deployed are usually inadequate compared to the number of gathered protesters. This often leads to the situation getting out of hand, as security forces are often compelled to use force to protect themselves given that they are outnumbered.

The allocation of appropriate task forces and special forces is equally important. The CRPF is one of the most overused forces armed forces in the country. Though CAPFs such as the BSF, ITBP and RAF have clear-cut mandates and roles they often end up being used to deal with civil protests and supplementing the CRPF. Due to the fact that they are the only paramilitary forces that have riot gear as part of their equipment, the CRPF are often called in whenever there is an eruption of violence. Presently, CRPF is used for VVIP security, counterinsurgency operations, security during elections, and riot control. Besides having multiple roles, the CRPF faces the problem of frequent shifting of their battalions. While a battalion may be posted in an insurgency-afflicted area fighting Maoists for one week, in the next, they can easily be posted cross-country to deal with civilian violence. This practice must be stopped. Their organisational structure, ethos and training methodology does not support taking on such varied responsibilities. It is therefore essential to the government to formulate and earmark specific task forces for different places and situations. Just as there cannot be an overarching strategy to deal with all forms of civilian violence, there cannot be singular task force, namely the CRPF, that is called in to deal with every kind of law-and-order situation.

USE OF FORCE BY SECURITY OFFICIALS

There are times when police and security forces may have to use force in situations of public disorder. The Indian Constitution provides for this under Section 129 of the Criminal Penal Code which gives the power to disperse an unlawful assembly by force to any Executive Magistrate or officer in charge of a police station.

In Kashmir, protesting crowds have primarily involved agitated citizens that weaponise stones against security officials. Police and security force personnel's use of “non-lethal” pellet guns in response has been indiscriminate and excessive. Each pellet is loaded with lead that, once fired, explodes into smaller pieces. These spread out randomly and haphazardly, increasing the chances of them not only hitting bystanders but hitting a human body in more than one place. At close range, a single lead pellet is likely to hit a person in multiple places on their body.¹⁴ Research shows that other kinetic impact projectiles such as rubber bullets or bean bags have the same ability to penetrate the skin as conventional live ammunition and can be just

as lethal.¹⁵ Conservative estimates show that in 2016 alone, over 90 civilians were killed by injuries caused by pellets and over 8,000 people were admitted in hospital with other injuries including permanent blindness. The pellet gun is, deceptively, a non-lethal, *lethal* weapon.

The use of pellet guns in the Valley is by no means a new phenomenon. They were first introduced in 2010 as the “less-lethal” alternative to other weapons. That year, they injured over 1,500 people and caused loss of eyesight in at least 90 others.¹⁶ Media reports state that doctors in Kashmir have received patients with pellet injuries virtually every week since 2010.¹⁷ The ‘Standard Operating Procedures to Deal with Public Agitations with Non-lethal Measures’ released by BPR&D in February 2011 after the 2010 violence in the state, does not discuss pellet guns, and it fails to list them as crowd control weapons that can be used by the police.¹⁸ It is therefore puzzling as to why they were extensively and indiscriminately used by the J&K police and CRPF soldiers.

The list of equipment and weapons for crowd control recommended by the BPR&D include water cannons, teargas shells, stinger and dye-marker grenades, tasers and lasers, net guns, and stink bombs.¹⁹ All of these are described as “non-lethal” weapons that are effective in crowd control. Interestingly, the list also includes ‘plastic bullets for mob dispersal’. On the use of plastic bullets, the BPR&D SOP report states that plastic bullets have “not yet been field tested. The .303 version was tested in Kerala and not found to be capable of dispersing a mob. In real life, under stress it is unrealistic for the policeman to be able to judge range correctly. It should not be used from a close distance.”²⁰ While the use of plastic bullets has been questioned in some countries such as Israel, India has not only failed to test them in the field—it also uses them frequently.

In 2013, the J&K State Human Rights Commission (SHRC) stated, “the use of pellet guns by government forces was a serious threat to life”. It declared that the petitions submitted regarding ten people who received serious injury from pellet guns made out a *prima facie* case of a human rights violation. The commission also reminded law enforcement agencies that they must follow standard operating procedure and use minimum force.²¹ In 2016, after pellet guns were used again to disastrous consequences, a similar plea of help was echoed. The MHA once again set up an expert committee for exploring “other possible alternatives to pellet guns as non-lethal weapons.” In September 2016, in a move widely seen as an effort to save face, before he made an official trip to violence-affected areas, Union Home Minister Rajnath Singh approved the use of chilli-based PAVA shells for crowd control in the Valley.²² However, while PAVA shells may be a non-lethal weapon that can be used for crowd control, their effectiveness in Kashmir can be questioned. The shells which are filled with organic-chilli based ammunition need to be fired from a distance of four to five metres. This is an extremely short distance, especially when protesters and rioters in Kashmir are prone to violence against security officials. It is therefore unlikely that they provide an adequate deterrent for protesters. It is also improbable that security forces would want violent agitators to get that close before firing at them with PAVA shells. However, irrespective of the political face-saving moves that governments may employ, pellet guns have not yet been banned and the SOPs issued in February 2011 remain largely ignored.


The use of pellet guns by both the state and central government in Kashmir has been careless and callous. Irrespective of the uniqueness of the situation, Indian crowd control tactics must adhere to international standards of crowd control. The United Nations Human Rights Commission (UNHCR) lists the 'Basic Principles on the Use of Force and Firearms by Law Enforcement Officials'. It starts by saying that government and law enforcement should develop a range of non-lethal weapons and ammunition that should be carefully evaluated in order to minimise the risk of endangering involved persons. The UNHCR standards also advise that if they are going to use force, they shall as far as possible “apply non-violent means before resorting to use of force and firearms”. Most importantly, the basic principles state that “whenever lawful use of force and firearms in unavoidable, law enforcement officials shall exercise restraint in such use and act in proportion to the seriousness of the offence and legitimate objective to be achieved.”²³

India's tactics of controlling a violent crowd therefore not only fail international standards, but are also excessive and disproportionate within their own right. The indiscriminate and lethal use of pellet guns on protesting civilians is a highly disproportionate response to stone throwing by civilians. The use of certain equipment and non-lethal weapons used for control crowd should follow three basic principles: no more force should be used than is necessary; force should not be used as a punitive measure; and it must cease immediately after the crowd has dispersed. Government should ensure that crowd control weapons are absolutely non-lethal, and that they are used in a way that does not threaten human life and the right to protest but rather protects against loss of human life and destruction of property.

The government must seriously reconsider the use of pellet guns as crowd control weapons. It must adopt SOP on violent crowd control that uses non-lethal weapons to disperse the crowd and distinguish between violent and peaceful protesters and bystanders. The use of lead pellets increases the chances of a single shot hitting more than one person and fatally injuring them. Security officials must only use force where there is a serious and imminent threat to life and property and they have exhausted all other means to disperse the crowd. In a state like Kashmir where throwing stones at security officials has become commonplace and predictable, government must provide security officials with proper protective gear. Helmets, masks, body armour and shields should be given to those dealing with protesters to ensure that law enforcement officials are not injured to the point that they engage in violence themselves.

WHAT NEXT?

The right of citizens to protest and gather peacefully without arms is a fundamental aspect of India's democracy. While it is also the right of the government to protect civilians from violent protests, certain essential principles need to be kept in mind. The use of pellet guns in Kashmir must not be repeated anywhere else. The MHA should enforce a permanent ban on such deceptive equipment which is more lethal than claimed. It is surprising that despite the persisting fragile security situation in Kashmir, no government has formed a task force or special force specific to the

state, one that works solely in Kashmir, knowing the people, their grievances and their plans for future protests. Instead, laws such as the Armed Forces Special Powers Act (AFSPA) run supreme, further alienating civilians from the Indian state. The government must seriously examine the possibility of creating a force akin to the RAF, specific to the Kashmir Valley. It should be sufficiently large in number and well-trained to deal with the kind of violent civil protests seen there. While an argument is made for reducing troop numbers in Kashmir, a special RAF-like force would replace other forces present in the state. Stationed in the Valley, the forces' aims should be to build confidence and trust between themselves and civilians and collect intelligence. A special task force that is based solely in Kashmir would go a long way in resolving grassroots civilian problems and grievances with the state and the army. As the past year's events in Haryana and Kashmir have clearly demonstrated, India must hold security force personnel to account when there is excessive use of force against civilians, causing either serious injury or death. The government must emphasise that force can only be deployed in severe emergency situations, clearly defining what those situations may be and what type and levels of force should be applied. It is vital for the state to better train the police, especially in J&K and use protective equipment when controlling a large crowd. It is the prerogative of the Indian authorities to enable police and security forces to effectively police crowds, providing them with non-lethal equipment and adequate protection. Most importantly, the country must begin to seriously consider police reforms at the centre and state level. Irrespective of the government or political party in power, state and central police forces must remember to work for, protect, and defend the citizens. By working towards resolving problems arising from the politicisation of the police force, citizens can be sure that even when a democratic civil protest turns violent, police forces will restore public peace and order in a lawful, legal and constitutional manner. 

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ENDNOTES:

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