

Police Misbehaviour in the COVID-19 Pandemic in India, 2020

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Abstract This paper examines the factors that caused to the misbehaviour of the Indian police towards the population during the nationwide COVID-19-related lockdown in 2020. The paper is based on a questionnaire survey conducted by The Centre for the Study of Developing Societies (CSDS) between October and November 2020. The results showed that most respondents had witnessed the police providing help, but then police using force or speaking rudely to civilians. Additionally, police discriminated against migrant workers, the poor, and Muslims during lockdown. We found that the police officers overworked for long hours; thus, the fear of infection in dealing with large numbers of people for long periods were stress factors contributing to their excessive use of force and rude language. The Indian government needs to lighten the heavy responsibility borne by the Indian police, provide adequate infection control measures, and manage police working hours. The central government should also immediately consider making decisive legal and organisational reforms in the Indian police force.

Key words COVID-19, law enforcement, policing, misbehaviour, India

I. Introduction

As of the mid of December 2021, the total official COVID-19 death toll in India was about 470,000, with Maharashtra having the highest number of deaths at 141,298, followed by Kerala with 43,626 and Karnataka with 38,277.¹ India is the third most infected country in the world after the USA and Brazil,² and the disease is still spreading, causing enormous damage to society.

In India, a 14-hour 'People's Curfew' (Janata Curfew) was announced on 22 March 2020 to prevent the spread of the disease. Then, in a televised address by Prime Minister Narendra Modi at 8pm on 24 March, it was announced that a three-week, nationwide lockdown in India was to start four hours later at midnight on 25 March. All public transport was suspended, government offices, factories, shops and schools closed down, throwing civilian life into chaos (Ray and Subramanian, 2020, pp. 3–4). Later, the BBC reveals Modi's government did not consult key ministries and states while imposing the world's strictest lockdown. Consequently, the lack of consultation and scheme ahead of the lockdown led to local governments being ill-prepared for the exodus of migrant workers from cities to villages. Millions of helpless migrant workers began walking them home and many died on the way in accidents or due to hunger and exhaustion.³

The lockdown phase 1 was starting at midnight on March 25, and lasting for 3 weeks until April 14, extended the countrywide until May 3 (phase 2). Then it was extended on May 1 a further 2 weeks until May 17 (phase

3). And the National Disaster Management Authority extended again until May 31 (phase 4). Finally, Government of India announced that the continuing lockdown extended up to June 30, 2020 in containment areas (Saha and Chouhan, 2021, p. 384). The media coverage of the excessive use of force by the Indian police on violators of the nationwide lockdown during this period led to criticism of the outdated law enforcement system (Centre for the Study of Developing Societies, 2021, pp. 102–105).

This paper aims to argue the factors that contributed to the inappropriate ways in which the Indian police dealt with the civilians during the nationwide lockdown phase 1 to 4 in 2020.

II. The Police Act, 1861 as the Root of Police Misbehaviour

This section considers the law enforcement activities of the Indian police force, which were criticised during the lockdown period, in relation to the history of the establishment of the Indian police force and the legal system.

The legal basis for the law enforcement of the Indian police force is the Police Act of 1861. The establishment of the Indian police force was planned by the British colonial government in 1860, following the Indian Rebellion of 1857.

The British colonial government established the Indian police as an organisation to enhance control, in direct contrast to the more democratic policing that had developed in Britain by then. It enacted the Police Act of 1861,

which focused on maintaining public order in the narrow sense through surveillance and control (Verma, 2005, pp. 10–11). The Indian police were given a military role and institutionalised as an end-organisation of the state power to control the citizen.

Section 23 of the Police Act of 1861 focuses on the duties of the police in the prevention of crime and nuisances disrupting public order and the arrest of suspects.⁴ The Indian police force was designed to be an authoritarian force to maintain and further strengthen colonial rule; therefore, the Act did not have provisions to provide administrative services to the population or to protect their human rights.

The repressive nature of the police towards the population was manifested in the repeated armed repression of the civil disobedience movement led by Mahatma Gandhi between 1930 and 1933 (Arnold, 1992, pp. 43–44).

The legal basis governing police action in India is the Police Act of 1861, which was enacted to maintain the colonial regime and is the current law. Even today, the constitution and duties of the Indian police are governed by the Police Act 1861, while the scope of their powers is governed by the Police Forces (Restriction of Rights) Act of 1966. The Police Force Act of 1966 defines a police force as ‘any force charged with the maintenance of public order’. The police force of India under the Police Act of 1861 and the Police Force Act of 1966 has often proven to be paralysed and dysfunctional in its law enforcement activities, especially during riots (Dhillon, 2005; Rai, 2008).

India advocates democracy, but it will not be easy to transform police activities into democratic ones. The negative legacy of colonial rule has been the repressive control of the population, a role supported by the 1861 Police Act.

In the 1950s, in Maharashtra and Gujarat, and in the 1970s, in the Union Territory of Delhi, each state enacted its own police laws to apply to its territory, but these laws were essentially based on the Police Act of 1861.⁵

The Ministry of Home Affairs set up three reform commissions between 1979 and 2000 to focus on the Police Act of 1861 and its police system and to make reform proposals. The National Police Commission was set up from 1979 to 1981, the Ribeiro Committee from 1998 to 1999, and the Padmanabhaiah Committee in 2000 to propose amendments to the Police Act of 1861 and reforms in the police system. Propositions in these police reform commissions’ reports were put forward by the Sorabjee committee in October 2006 in the form of the Model Police Act of 2006 as an alternative to the Police Act of 1861 (Commonwealth Human Rights Initiative, 2007).

The Sorabjee committee emphasised the purpose of the bill for this Act. Specifically, they called for the police to be positioned as an institution that provides professional police services in a democratic society, conducts adequate and effective law enforcement activities at the request of the population, and is accountable to the rule of law.⁶

The 2006 Bill was prepared in the light of the changing security situation in India, particularly the increase of riots, belligerency and naxalism, to change the traditional repressive role of the police and to clarify their responsibilities. It was a reflection of the expectations of the population of the democratic society that India had built since independence.⁷ The most obvious difference from the 1861 Police Act is Article 57, which sets out the role, functions, duties, and responsibilities of the police, and also contains references to human rights and co-existence between religious communities:

Chapter IV of this Act establishes the roles, functions, duties and responsibilities of the Police. On Article 57, the role and functions of the Police shall be mainly, 1) to uphold and enforce the law impartially, and to protect life, liberty, property, human rights, and dignity of the members of the public; 2) to protect internal security, to prevent and control terrorist activities, breaches of communal harmony, militant activities and other situations affecting Internal Security; 3) to create and maintain a feeling of security in the community, and as far as possible prevent conflicts and promote amity; 4) to collect intelligence relating to matters affecting public peace, and all kind of crimes including social offences, communalism, extremism, terrorism and other matters relating to national security, and disseminate the same to all concerned agencies, besides acting, as appropriate, on it themselves.⁸

Although the 2006 Bill was passed by the Supreme Court on 22 September 2006 and has been already passed in 18 states, it has not been enacted as of 2021 because, as mentioned earlier, each state has different police laws. Singh points out this situation ‘one nation, many police acts’ and sees the central government’s slow legislation as a problem.⁹

III. Policing during the Lockdown in 2020

The nationwide lockdown, which began in March 2020, was issued by the Central government under the National Disaster Management Act of 2005 and then, implemented by the state governments. The Indian police forces across the country enforced the observance of the ‘world’s larg-

est nationwide lockdown' affecting 1.3 billion people. The Indian police engaged in law enforcement activities with legal force granted by articles 188 ('Disobedience to order duly promulgated by public servant'), 269 ('Negligent act likely to spread infection of disease dangerous to life'), and 270 ('Malignant act likely to spread infection of disease dangerous to life') of the Indian Penal Code.¹⁰

Confrontations between the police and residents have been reported during the nationwide lockdown. The Centre for the Study of Developing Societies (CSDS) conducted a questionnaire survey of 2,400 people, 240 in each of 10 states, between October and November 2020 on police behaviour.¹¹ The questionnaire asked the following question: 'When lockdown was in place, did you witness any of the following: a. Police speaking in a rude language with people? b. Use of force on a civilian by police? c. Police providing help to a civilian in need?' Figure 1 shows that 56% of the respondents answered that they had witnessed 'police providing help to a civilian in need', indicating that the majority had a positive perception of the actions of the police during the nationwide lockdown. In contrast, 36% of respondents answered that had they witnessed the 'use of force on a civilian by the police', and 30% answered that they had witnessed the 'police speaking rudely to people'. Thus, less than 40% of the respondents had witnessed police officers verbally abuse or use force against people during the nationwide lockdown (Centre for the Study of Developing Societies, 2021, pp. 35–36).

However, when we look at the data from each state, the use of force and rude language by police was high in Bihar (63%), Gujarat (61%), and Uttar Pradesh (45%) and low in Kerala (10%), Andhra Pradesh (16%), and Maharashtra (20%). One of the reasons for the high rate of police misbehaviour is presumably the shortage of police officers. Statistics published in January 2020 show that the num-

ber of police officers per 100,000 population was 54.90 in Bihar, 86.96 in Gujarat, and 123.71 in Uttar Pradesh, compared to 143.58 in Kerala, 84.98 in Andhra Pradesh, and 165.99 in Maharashtra (Bureau of Police Research and Development, 2020a). There is not much difference between Gujarat and Andhra Pradesh. Therefore, it cannot be mentioned that the police misbehaviour was necessarily due to shortages of police officers. Meanwhile, lower rates of police misbehaviour were a common denominator among the three non-BJP rule states, Kerala, Andhra Pradesh, and Maharashtra.

It can be said that the attitudes of the chief ministers towards police misbehaviour during the nationwide lockdown played a part here. For example, Maharashtra Chief Minister Uddhav Thackeray, a leader for Shiv Sena, called state police chief Subodh Jaiswal on 26 March 2020, when criticism of the excessive use of force by the police was raised soon after the lockdown order was issued. And Uddhav asked him to stop the indiscriminate beating of residents by constable-level police officers who were monitoring the nationwide lockdown in cities.¹²

In fact, many residents were arrested by the police under Section 188 of the Indian Penal Code for going out without complying with the nationwide lockdown. By the end of May 2020, at least 23,641 people had been arrested in Maharashtra.¹³

Local media reported how the police punished violators by making them do sit-ups, squats, and frog jumps on the street and beating them with lathi. When the footage was reported in other countries, there was domestic and international criticism of the excessive use of force in the law enforcement operation.

During the nationwide lockdown, the transport infrastructure was stagnant and the poor, especially in urban areas, such as migrant workers, slum dwellers, and many Muslims, were left destitute as they had neither cash

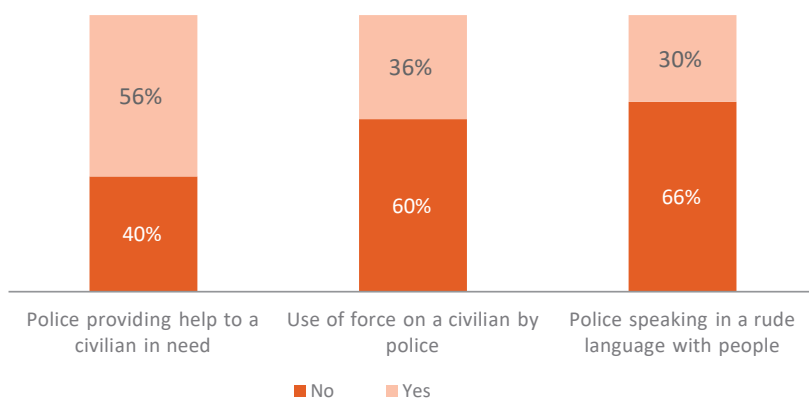


Figure 1. Police behaviour during the lockdown, 2020

Source: Centre for the Study of Developing Societies (2021, pp. 35–36).

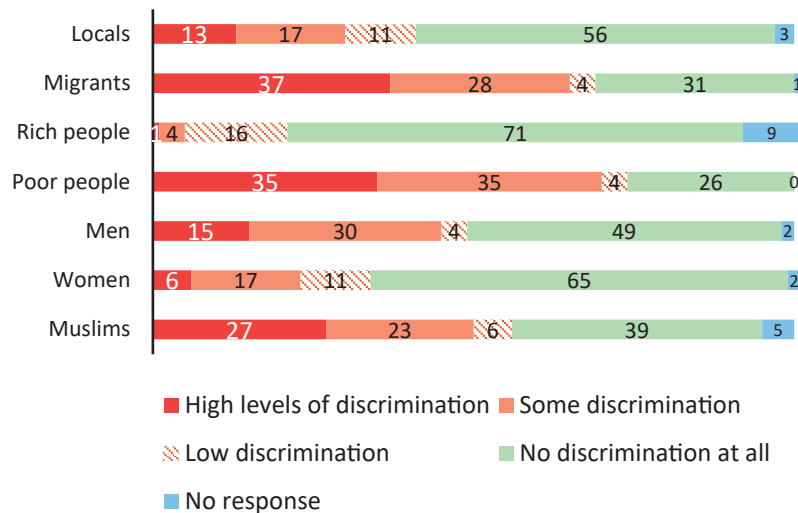


Figure 2. Police discrimination against certain groups during the lockdown, 2020

Note: The citation is transcribed exactly as presented in the original sources.

Source: Centre for the Study of Developing Societies (2021, pp. 122–125).

income nor ration cards to access foodstuffs (Mander, 2021).

The CSDS conducted a survey with a total of 100 people—68 from the National Capital Territory of Delhi, 18 from Rajasthan, and 14 from Gujarat—on discriminatory language and behaviour towards certain communities and groups between October and November 2020. The question related to this issue was, ‘in your experience, during the lockdown, did the police discriminate against the following groups or communities (probe whether highly discriminated against, somewhat discriminated against, hardly discriminated against, or not discriminated against at all): to Muslims, Women, Men, Poor people, Rich people, Migrants, and Locals.’ The results of the survey showed that the classes and communities with the highest percentages of respondents who answered that the police discriminated were migrant workers (37%), the poor (35%), and Muslims (27%) (Centre for the Study of Developing Societies, 2021, pp. 122–125) (Figure 2).

Despite the limited sample size of 100 people in total from three states, a tendency for the police to discriminate against certain groups: migrant workers, the poor, and Muslims is evident. It could be argued that the wealthy were able to stay at home and therefore go out less often. Thus, they had less contact with the police who enforced curfews, and therefore experienced and heard relatively less regarding discrimination.

IV. Reasons for Police Misbehaviour and Brutality during the Lockdown

One of the factors that tended to cause people to condone or disregard police misbehaviour during the nation-

wide lockdown was the high risk of infection that the police incurred by dealing with large numbers of people. According to data announced on 21 August 2020, 76,768 police officers nationwide were infected with COVID-19. As for the numbers of police officers infected in the six states mentioned above, the figures were 4,083 in Bihar, 869 in Gujarat, 6,708 in Uttar Pradesh, 1,878 in Kerala, 2,738 in Andhra Pradesh, and 12,760 in Maharashtra (Bureau of Police Research and Development, 2020b).

Furthermore, the police officers had inadequate equipment to protect themselves from infection, and shortage of personnel meant long overtime hours exposed to the risk of infection. The CSDS conducted a survey in 2020 on the working conditions of 99 people: 77 constable-level officers and 22 in higher ranks. Sixty-two percent of the police officers worked 11 hours or more a day, including 26% who said they worked 15 hours or more a day (Centre for the Study of Developing Societies, 2021, pp. 73–74).

Excessive use of force and misbehaviour by the police, who were working overtime and exposed to the risk of infection, resulted in some residents of Maharashtra and Tamil Nadu being killed in custody after breaking the curfew.

On 30 March 2020, a resident who broke the curfew was assaulted and killed by four police officers from the Juhu police station, Mumbai. The local police initially reported that he had been lynched to death by neighbours, but later analysis of footage from surveillance cameras placed in the city confirmed that he had not been lynched to death in the city.¹⁴ Chief Justice Datta of the High Court of Bombay viewed the police misbehaviour as the problem, but he also pointed out that this was partly engen-

dered by the situation in which many residents were not complying with the curfew.¹⁵

A similar incident also occurred in Tamil Nadu. On 19 June 2020, two residents detained at the Sathankulam police station in Thoothukudi district for violating the curfew were assaulted and killed, and it was confirmed that members of the Friend of Police, a community policing initiative organized in 1994, were involved in the assault. On 8 July of the same year, the Chief Minister of Tamil Nadu ordered a ban on activities of all FOPs that had been set up in police stations in the state.¹⁶

These two incidents, and others, highlight that the fear of infection involved in dealing with large numbers of people for long periods in the city were stress factors contributing to the excessive use of force by the police, including penalties, arrests, and assaults on residents who broke the curfew.

V. Conclusion

The spread of COVID-19 and the implementation of a nationwide lockdown caused the Indian police force to inadvertently draw national and international attention to its outdated ways in which officers dealt with the citizen with violence. At the same time, these events highlighted the unpreparedness, lack of planning and lack of due consideration of the social impact in the central government's imposition of the nationwide lockdown, in addition to its sloppiness in leaving the responsibility for the implementation of the lockdown to the state governments.

Each day, the spread of COVID-19 is entering a new phase, and a large-scale spread of infection will probably recur in the near future. There is a need to consider the heavy responsibility the Indian police have been bearing, and provide adequate infection control measures and control of working hours for them in order to dispel the negative image of the administrative services they provide. It is imperative for the central government to see this as an opportunity for decisive reform and to undertake legal and organisational reform of the police promptly.

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Notes

1. See '#IndiaFightsCorona COVID-19', Government of India. <https://www.mygov.in/covid-19/> (accessed December 17, 2021).
2. See <https://www.worldometers.info/coronavirus/> (accessed December 17, 2021).
3. "India Covid-19: PM Modi 'did not consult' before lockdown" (March 29, 2021). <https://www.bbc.com/news/world-asia-india-56561095> (accessed December 17, 2021).
4. Ministry of Home Affairs, Government of India. (n.d.): "The Police Act, 1861". https://www.mha.gov.in/sites/default/files/police_act_1861_0.pdf (accessed December 27, 2021).
5. Police Forces in Maharashtra and Gujarat are governed by the Bombay Police Act of 1951, in Kerala by the Kerala Police Act of 1960, in Karnataka by the Karnataka Police Act of 1963, in Delhi by the Delhi Police Act of 1978, etc. Some state governments have also framed separate legislation to regulate the working of their respective state police forces (Commonwealth Human Rights Initiative, 2001: pp. 1–2).
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10. Digital repository of All Central and States Acts. (n.d.): "The Indian Penal Code, 1860". <https://www.indiacode.nic.in/handle/123456789/2263?locale=en> (accessed December 27, 2021).
11. The CSDS report is based on a sample survey across 10 states/union territories as follows: Andhra Pradesh, Bihar, Gujarat, Karnataka, Kerala, Maharashtra, Tamil Nadu, The NCT of Delhi, Uttar Pradesh, and West Bengal.
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