

Policy Watch

No. 1

PASSIVE POLICE

Institutional Learning Through Inquiry Commissions

VASUNDHARA SIRNATE



THE HINDU CENTRE

for

Politics and Public Policy

© The Hindu Centre for Politics & Public Policy, 2014

The Hindu Centre for Politics and Public Policy is an independent platform for an exploration of ideas and public policies. Our goal is to increase understanding of the various aspects of the challenges today. As a public policy resource, our aim is to help the public increase its awareness of its political, social and moral choices. The Hindu Centre believes that informed citizens can exercise their democratic rights better.

In accordance with this mission, The Hindu Centre publishes policy and issue briefs drawing upon the research of its scholars and staff that are intended to explain and highlight issues and themes that are the subject of public debate. These are intended to aid the public in making informed judgments on issues of public importance.

All rights reserved.

No part of this publication may be reproduced in any form without the written permission of the publisher.

————— PASSIVE POLICE —————

Institutional Learning Through Inquiry Commissions

VASUNDHARA SIRNATE



THE HINDU CENTRE

for —————

Politics and Public Policy

ABSTRACT

When the police remain passive in a communal riot, more people die. This is now seen as a near truism in the Indian context as robust studies of communal violence in India have repeatedly pointed out. Interestingly, commissions of inquiry set up by the Indian state in three instances – the anti-Sikh riots (1984), the Mumbai riots (1992-93), and, the post-Godhra riots in Gujarat (2002), have repeatedly pointed to police inaction and passivity as contributing to a worsening of the immediate tense communal situation, resulting in a higher death count.

In this paper, I examine the findings of three official reports of commissions of inquiry that dealt with these specific communal riots. I argue that in New Delhi in 1984, in Mumbai in 1992-93 and in Gujarat in 2002, the reports suggest similarities in the behaviour of the local police. All three commissions of inquiry named delinquent police personnel and at least one commission report advocated action against some of them.

Broadly, the commission reports also asked for police reform that would disable police bias against minority groups. However, surveys have demonstrated that people still perceive the police as biased. Further, the fact that similarities in police behaviour have occurred repeatedly in different locations suggests that there is a lack of institutional learning in each instance – lessons from 1984, 1992 and 2002 are not systematically transmitted to the police in the different States.

These events of public importance do not become a template for larger police reform across the country in any attempt to pre-empt such an event from occurring again. I argue that a combination of factors affects institutional learning in this context – pre-existing police biases that translate into inaction and passivity and the lack of institutionalised mechanisms of knowledge to transfer learning to the local levels of the police at lower ranks.

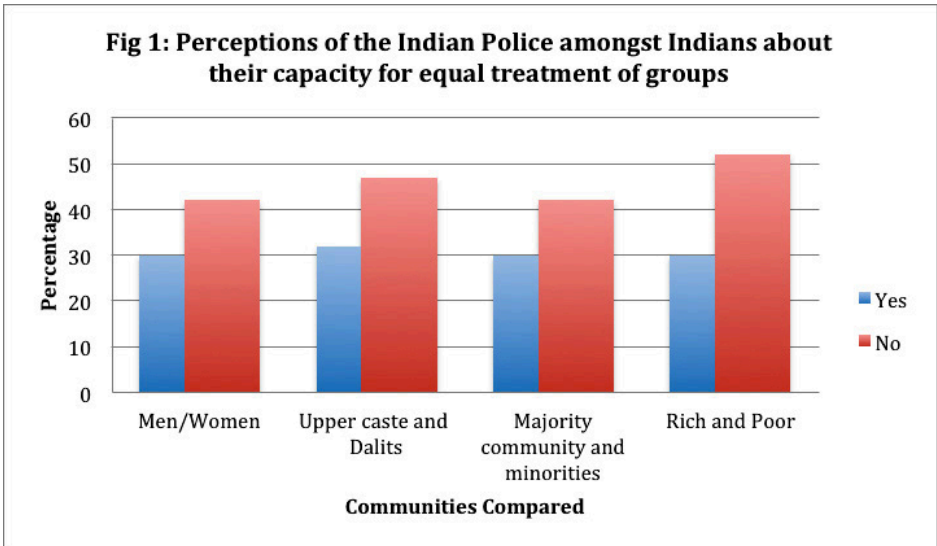
I. INTRODUCTION

Understanding governance in India, the land of a ‘million mutinies,’ is often considered *sui generis* because of the size, diversity, and unique historical experiences of contemporary India. Governance is a complicated concept not only because scholars cannot agree on what it means (Mitra, 2005), but also because a modern state provides more than law and order – it provides institutions to regulate the society and the economy. This complication prevents robust studies of governance in India (Mitra 2005 is a notable exception), as most scholars focus on the relative autonomy of political institutions from societal interest groups and how they may stifle or enable governance, or, studies focus on constraints that elites face while making choices on governance issues. For political scientists, assessments of governance begin with whether a state can provide and maintain conditions where law and order prevails. This becomes a crucial first step for any study on the capacity of the Indian state to govern at all, since other institutions in India (like the bureaucracy) can function only if basic law and order exists in a region.

The Indian state has been seen as failing for the last 65 years to provide the basic function of a state – law and order that can prevent inter-caste violence, Hindu-Muslim riots, insurgencies, and movements by left-wing extremists to overthrow the state. There are numerous explanations for why each of these forms of violence has persisted. A common thread running through academic literature as well as the government’s own accounts is the fact that in all cases, the agents of the state who are supposed to uphold law and order – the police – have failed to do what they were supposed to do. In this paper, I demonstrate that the police have biases and are politicised, and hence take sides and lose any sense of perceived impartiality which leads to a spiral of violence, and that the institutions of police remain biased because they do not acknowledge that such institutional biases exist. This affects the police’s capacity to act as first responders in most law and order situations.

In this contribution I do not focus so much on the politicisation of the police, an idea that has been stressed many times over. I instead stress on the weakness of institutional learning and police training to break down bias in the police at the point that it matters, i.e., in an actual riot situation. To assess whether there is institutional learning or not, I examine three reports of commissions of inquiry set up after major riots, namely, the anti-Sikh riots in New Delhi in 1984, the Mumbai riots in December 1992 and January 1993, followed by serial bomb blasts in March 1993, and the post-Godhra riots in Gujarat in 2002. I find that there is a striking similarity in police response in all three cases and it is apparent that ‘lessons’ were not ‘learnt’. In the conclusion I discuss some reasons for a lack of institutional learning.

The starting point for this assessment and line of argumentation comes from Mitra’s work on governance where he has argued, “governance is high when people stick by the rules of the game” (Mitra, 2005). I argue that when the police do not stick to the rules of the game generated by training, legality and the constitutionality of their actions in a riot context, people not only die in larger numbers, but the basic public perception of the police suffers. I agree with Mitra’s work that says that conflict is not unavoidable, i.e., that conflict doesn’t always occur. It occurs when it is allowed to. I go a step beyond to also argue that the conditions under which orderly rule is possible are conditions in which institutions are willing to borrow best practices



Source: State of the Nation Survey, 2009. The sample size for this question was 5,819. The respondents were asked whether they thought the police treated men/women, upper caste/Dalits, rich/poor and minority community/majority community members, equally.

from across the world and repeatedly transmit these best practices and ‘learning’ to the lowest levels of the police across all States.

Echoing Mitra, “governance is critically conditioned by the ability of political institutions to accommodate embedded values and undertake strategic reform” (Mitra, 2005). In no case does this commitment to governance fail more regularly than it does with the Indian police, where repeated biases against groups of people in society, including women, minorities and Scheduled Tribes and Castes, undermine the very purpose of policing.

It is not only the commissions of inquiry that have found biases in the police. That

the police are biased is a view that is generally held in the population. In the 2009 State of the Nation Survey, respondents were specifically asked whether the police would treat men and women, Dalits and upper caste, and someone from a majority religion, and someone from a minority religion equally and fairly. The results are quite striking as I illustrate in Figure 1 on the previous page.

As Figure 1 illustrates there is clear evidence of a perceived bias in the police against women, minorities, Dalits and the poor. What is most striking is that the perceived bias against the poor is much larger than the bias against women, Dalits and minorities. Interestingly, in the survey there is no large gender difference in the percent among men and women saying that women and men will not be treated fairly; there is not a large difference (less than 5 points) between the upper castes and the Dalits saying that a Dalit and an upper caste will not be treated fairly. Hindus and Muslims are equally likely to say that someone from a majority religion and someone from a minority religion will not be treated fairly.

There are two clear patterns in the responses to whether the poor, women, Dalits, and minorities are treated fairly or not. Residents of metropolitan areas are more likely to say that the police will not treat Dalits, minorities and the poor fairly. The group that feels the least amount of bias are those who are connected, i.e. someone in their family knows a bureaucrat or a politician. It is the connected people who are most likely to see the police treating women, minorities, Dalits, and the poor fairly.

II. COMMISSIONS OF INQUIRY

In India the Commissions of Inquiry Act, 1952, allows a State or central government to “appoint a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance”.¹ Following this constitutional provision, the Indian government and its federal units have, at many points in time since 1947, set up inquiry commissions that have investigated corruption and fraud within the government. Many such inquiry commissions have also been set up with much frequency to investigate social flash points that result in situations of societal violence. For instance, clashes between different castes and religions have been the subject of repeated inquiry in India.

Several commission reports that have investigated communal violence in particular have pointed to police inaction and complicity as a cause of concern and the subject of future comprehensive police reforms. Political scientists like Steven Wilkinson have also argued that when the police do not act to protect people in situations of communal violence, the death toll is likely to be higher (Wilkinson, 2006). In addition to this, Paul Brass has successfully argued that in several places ‘organised riot machines’ arrange riots. So, Brass argues, riots are not spontaneous eruptions of periodic identity clashes, as many culturalists have argued (Brass, 2005). Many independent reports, like the Human Rights Watch report on the Gujarat violence of 2002 and a similar report by the National Human Rights Commission have also maintained that police inaction is tantamount to complicity by the state and have recommended immediate police reform across the country.²

The three commissions of inquiry that are examined for this paper are each taken from different incidents from across the country that occurred at different points in time. Each report has, in its own way, located in the police ‘biases’ against certain minority groups like Muslims, although only one of them, the Srikrishna Commission report on the Mumbai riots of 1992 and 1993, openly used the term “police bias” and suggested measures to combat this. The Srikrishna report on the Mumbai riots of 1992 and early 1993, also tried to analyse why police bias existed and located it at an intersection of socio-economic factors, like the fact that in Mumbai, many police personnel at the lower ranks, are slum dwellers themselves and are exposed to communal propaganda. This, combined with a lack of repeated mid-career training that can break down these inherited social biases, results in some problematic

1 See Commissions of Inquiry Act, 1952. Available online at the website of the Ministry of Home Affairs at mha.nic.in.

2 See 2002. “We have no orders to save you”: State Participation and Complicity in Communal Violence in Gujarat. India: Human Rights Watch. Also see, National Human Rights Commission’s “Recommendations on Gujarat” listed in the Human Rights Watch report.

behaviour that trumps police training during operations.³

It is important to note that ‘bias’ is not a police-wide phenomenon, i.e., we cannot argue that all police personnel involved in policing riot situations act with prejudice against minority groups. As an interview with an Indian Police Service (IPS) officer reveals, there are repeated emphases on riot policing during training.⁴ Further, the Bureau of Police Research and Development that also develops training modules for police officials at all levels has placed particular emphasis on riot policing.⁵ However, the very fact that police have repeatedly been passive in the face of rioting mobs leaves several glaring doubts about the role of interactions between police and government and institutional learning and change. Why have repeated reports from inquiry commissions that the police force is inactive and/or biased in riot situations, failed to transform into a broader reform of the Indian police at local levels, even when training modules focus on such policing? I also found that many inquiry commission reports are tabled in the parliament or legislature and then buried. Some reports, like the Nanavati Commission report on the anti-Sikh riots in Delhi, submitted in 2005 and the Srikrishna Commission report submitted in 1998, also identify individual police personnel that acted against their line of duty, but in many cases justice and penalties have been slow to come.⁶

I start with the 1984 anti-Sikh riots for which the Nanavati Commission was set up. Second, I look in some detail at the report of the Srikrishna Commission of Inquiry into the Mumbai riots of 1992 and 1993 and the serial bomb blasts that occurred in Mumbai following the rioting, in March 1993. Third, I look at the Gujarat State government report on the Godhra incident and the post-Godhra riots, also headed by Justice Nanavati, and Justice Mehta. There was no central government inquiry into the post-Godhra riots in the State of Gujarat and the Indian government has been using the National Human Rights Commission (NHRC) Report, which was not made publicly available, as a template for future action. The lack of a central government inquiry commission was possibly because of the clause in the Commissions of Inquiry Act, 1952, which states explicitly that a central government cannot set up an inquiry commission if one already exists under the federal State’s mandate and is functioning well. A central government can set up an alternative inquiry commission into the same

3 See Srikrishna, B. N. 1998. The Srikrishna Commission Report into the Bombay riots of December 1992, January 1993 and the Serial Bomb Blasts in March 1993.

4 Interview with an IPS officer stationed in Bihar. Interview given on condition of anonymity.

5 See the Bureau of Police Research and Development’s training modules and syllabi. Available online at <http://bprd.nic.in/index2.asp?slid=332&sublinkid=144&clang=1> (Last accessed On February 1, 2014)

6 See Srikrishna, B. N. 1998. The Srikrishna Commission Report into the Bombay riots of December 1992, January 1993 and the Serial Bomb Blasts in March 1993. Also see, Nanavati, G. T. 2005. Report of the Justice Nanavati Commission of Inquiry into the Anti-Sikh Riots, 1984. New Delhi.

incident only if it has grounds to expand the inquiry to cover more States.⁷

I find that in all these cases, taken from different points in time and from different parts of India – New Delhi, cities in Gujarat, and Mumbai – the commission reports, with the exception of the Gujarat report, all suggest police inaction and in some cases complicity with mobs that operated during the riots. All such commissions have pointed out that in almost all cases of communal violence, the administrative and police machinery has been a facilitator of socio-political violence. All commissions have also recommended the need for an attitudinal change in the police force and this observation has been ignored, as K.S. Subramanian has argued, as the government sees reforms in the area of governance as non-plan expenditure (Subramanian, 2010).

When studies of the Indian police were still fresh, David Arnold drew our attention to the nature of the Indian police at the time of independence when it was not accountable to the public, followed orders from a civilian administration, used violence on a regular basis and had the combined strength of quasi-military discipline and training (Arnold, 1976). To this list can be added two further features of the lack of transparency and secrecy. The continuation of these patterns has given rise to centralised police power, which has come to the aid of vested interests on a number of occasions and has subsequently worked contrary to the federal logic of the constitution in the post-independence period (Subramanian, 2003).

7 See Commissions of Inquiry Act, 1952. Available online at the website of the Ministry of Home Affairs at mha.nic.in.

III. How Commissions of Inquiry Establish Police Passivity and Bias

Commissions of inquiry are set up when there is an extraordinary incident that signals state breakdown, failure or corruption. Often, a team of established or retired judges heads the commissions. Mainly these individuals have a strong reputation for fairness. The commissions can outsource parts of their job description to an affiliated organisation if they feel the need. Justice Srikrishna, for instance, outsourced a sociological study of the riots in Mumbai to the Tata Institute of Social Sciences, while the commission itself focused on evidence gathering and witness affidavits.⁸

By no means is the work of a commission of inquiry a small task. As I found while reading the reports, most commissions work non-stop for over a year to just gather evidence. In some cases, the commissions break down and have to be reconstituted and all witnesses re-examined. Therefore, the reports often come two or even five years later, by which time the incident itself has disappeared from public consciousness. In this section I recount some of the main findings and recommendations of the commissions of inquiry I have picked for study.

The Nanavati Commission was set up on May 8, 2000, to investigate the anti-Sikh riots that occurred in New Delhi in 1984. Sixteen years and nine previous inquiry commissions and committees later, the Nanavati Commission report on the anti-Sikh riots is seen as the most definitive of the lot. The nine commissions that came before were variously asked not to proceed (Marwah Commission), did not locate police action in the context of the rioting but recommended that another commission do so (Misra Commission), identified 72 police personnel for immediate legal action (Kapur Mittal Committee), or looked into various affiliated aspects of the riots like rehabilitation of victims (Dhillon Committee).⁹

In some cases, the reports on the anti-Sikh riots differ amongst themselves on the death toll. The Nanavati Commission report states, “the number of Sikhs killed in Delhi during November 1984 riots was 2,146; 586 persons were said to have been killed in other parts of the country during that period.¹⁰ Shri Ahuja after holding a detailed inquiry determined the total number of deaths at 2,733”.¹¹

The report also cites a previous commission of inquiry, the Justice Ranganath Mishra

8 See Srikrishna, B. N. 1998. The Srikrishna Commission Report into the Bombay riots of December 1992, January 1993 and the Serial Bomb Blasts in March 1993.

9 See Nanavati, G. T. 2005. Report of the Justice Nanavati Commission of Inquiry into the Anti-Sikh Riots, 1984. New Delhi.

10 See *ibid.*, pp 1.

11 See *ibid.*, pp 3.

Commission, which states,

“The incidents which took place on 31-10-84 were by way of involuntary reaction of a deep sense of grief, anguish and hatred for the assassins. That spontaneous reaction of the people soon transformed itself into riotous activity with participation and monitoring thereof by anti-socials due to passivity of the Delhi police. The Commission also found that the police was either indifferent or negligent in performance of its duties while those incidents were taking place and at times it also connived at or participated in them. There was failure on the part of higher police officers to make a proper assessment of what was brewing in the city.”¹²

Chief amongst these incidents of “connivance”, as the Commission stated, was one at Gurudwara Rakabganj in New Delhi where a sub-inspector, Hoshiar Singh, handed his service revolver to one of the mob members. Two people were killed in this incident, albeit not because of the use of the service revolver.

The Nanavati Commission’s report points broadly to a reluctance on the part of the police to act to stop mobs. It also cites a statement by veteran politician, Jaya Jaitley, who recounts to the Commission in her deposition that she saw police personnel telling the mobs to do as much damage and looting as they could in three days because after that the army would be called in to control the situation.

It would have been easy to locate the cause of police passivity in a mere lack of numerical strength of the Delhi Police, which would make any policing job inadequate especially in a large scale riot. However, several incidents of participation by police personnel in the riots recounted in explicit detail in the report make this claim hard to sustain for the Delhi Police.

Interestingly, even within New Delhi, certain police domains saw fewer riot related deaths. In each such case, individual police personnel acted according to the law and made arrests. Connaught Place in New Delhi and Karol Bagh were two such neighbourhoods. In Karol Bagh, the Station House Officer (SHO) launched a massive recovery of property drive and arrested 24 people. Here, the police officers of the precinct were threatened by the local municipal councillors and local notables, and were condemned for the arrests. Immediate release of the arrested people was demanded and turned down by the SHO who was also manhandled by local notables.¹³ I contrast this with the behaviour of the Sultanpuri SHO who led a mob and allegedly shot at people.¹⁴

12 See Nanavati, G. T. 2005. Report of the Justice Nanavati Commission of Inquiry into the Anti-Sikh Riots, 1984. New Delhi. pp 3.

13 See *ibid.*, pp 35.

14 See *ibid.*, pp 116.

The Nanavati Commission reported that it had received 415 affidavits from affected persons and their families. It also looked at 403 First Information Reports (FIRs) filed by the Delhi Police at various *thanas* or precincts and found many lapses of procedure during this vital recording of information on the basis of which legal action could have been taken against citizens using violence against others. The Nanavati Commission reported,

“As a result of not recording a separate or distinct FIR for each incident and by following a novel procedure of recording a general, vague and omnibus type of FIR covering many incidents, no proper investigation was done by the Police in respect of each incident/offence and even at the stage of trial proper evidence incident-wise was not produced. Mainly for these reasons most of the cases had ended in acquittal of the accused. The Committee also found that in most of the cases investigation carried out by the police was absolutely casual, perfunctory and faulty. Instead of recording statements of all concerned, including the eyewitnesses, the investigating officers, in most of the cases, recorded statements of only the complainants who were either widows, sons or other relatives of the persons killed; and, even those statements were laconic, cryptic and sketchy. No attempts were made by the investigating officers to find out witnesses to the incidents so as to collect direct evidence. No attempts were made to trace out the culprits and to effect recoveries of weapons or stolen/looted goods. Police had also adopted an illegal practice of calling upon the culprits to deposit the looted property quietly on the nearby roadsides and promising them that they would not be harmed.”¹⁵

The Report continued,

“Another malpractice noticed by the Committee was that the Police had prepared a kind of format for the aggrieved persons for submitting their complaints and it mainly called for information regarding their looted or burnt properties and the quantum of loss suffered by them. It did not contain any column regarding names of the victims and the offenders. The Committee also noticed that in large number of cases, the incidents reported by the aggrieved persons were not reflected in the charge sheets even though those persons had spoken about them during the course of investigation of those offences. The charge sheets filed in the courts were mostly couched in general terms without specifically referring to each incident and several accused (in some cases numbering 100 or more) were put up together to stand their trial even though allegations against them were totally different. The result was that such cases ended in acquittal of the accused due to utter confusion and want of marshalling of evidence. No serious attempt was

15 See Nanavati, G. T. 2005. Report of the Justice Nanavati Commission of Inquiry into the Anti-Sikh Riots, 1984. New Delhi. pp 5.

made by the Police to examine all relevant witnesses in the Court on the pretext that they were not traceable. In view of such serious lapses and derelictions of duty on the part of Police, the Committee recommended to the Government to take disciplinary action against the lower level defaulter police officials. As regards the Deputy Commissioners of Police and Assistant Commissioners of Police, the Committee observed that some of them had simply abdicated their responsibility of supervision and control over investigation of riots cases. The Committee also made certain suggestions regarding improvements to be made in the Police Organization and their training.”¹⁶

In a similar vein, the Srikrishna Commission of Inquiry points to the existence of police bias and malpractice in conduct. The Srikrishna Commission of Inquiry into the Mumbai riots of December 1992 and January 1993 and the Mumbai bomb blasts of March 1993 is perhaps one of the most comprehensive commission reports ever produced in independent India.¹⁷ The Commission began recording evidence on June 24, 1996, after a couple of false starts due to political interference where previous commissions were shut down. It collected evidence for one year, a process that ended on July 4, 1997. The Commission examined 502 witnesses whose depositions have filled 9,655 pages and recorded 2,903 documents as Exhibits (about 15,000 pages) and passed 536 orders. It also recorded evidence police station wise and looked at 26 such precincts. It wrote,

“If the mobs had been handled tactfully and with sensitivity by the police and accepted leaders of both communities, the protest would have peacefully blown over. The police mishandled the situation and by their aggressive posture turned the peaceful protests into violent demonstrations, during which the first targets of the anger of the mob became the municipal vans and the constabulary, both visible signs of the establishment.”¹⁸

On the subject of police bias the Srikrishna Report noted,

“The Commission is of the view that there is evidence of police bias against Muslims which has manifested itself in other ways like the harsh treatment given to them, failure to register even cognizable offences by Muslim complainants and the indecent haste shown in classifying offences registered in ‘A’ summary in _____ cases where Muslim complainants had specifically indicated the names and even

16 See Nanavati, G. T. 2005. Report of the Justice Nanavati Commission of Inquiry into the Anti-Sikh Riots, 1984. New Delhi pp 6.

17 The Srikrishna Commission was initially set up in 1993 and could submit its report only in 1998, after its Terms of Reference were expanded to include the Mumbai blasts and subsequent riots of early 1993. The Srikrishna Commission report was tabled and defeated on the floor of the Maharashtra Assembly.

18 See Srikrishna, B. N. 1998. The Srikrishna Commission Report into the Bombay riots of December 1992, January 1993 and the Serial Bomb Blasts in March 1993.

addresses of the miscreants. That there was a general bias against the Muslims in the minds of the average policemen, which was evident in the way they dealt with the Muslims, is accepted by the officer of the rank of Additional Commissioner, V.N. Deshmukh. This general police bias against Muslims crystallizes itself in action during January 1993.”

It further states,

“The built-in bias of the police force against Muslims became more pronounced with murderous attacks on the constabulary and officers and manifested in their reluctance to firmly put down incidents of violence, looting and arson which went on unchecked.”¹⁹

In assessing the role of the police the report notes towards the end,

“Police officers and men, particularly at the junior level, appeared to have an in-built bias against the Muslims which was evident in their treatment of the suspected Muslims and Muslim victims of riots. The treatment given was harsh and brutal and, on occasions, bordering on inhuman, hardly doing credit to the police. The bias of policemen was seen in the active connivance of police constables with the rioting Hindu mobs on occasions, with their adopting the role of passive on-lookers on occasions, and finally, in their lack of enthusiasm in registering offences against Hindus even when the accused were clearly identified and post haste classifying the cases in ‘A’ summary.”

Finally, the Report states,

“The response of police to appeals from desperate victims, particularly Muslims, was cynical and utterly indifferent. On occasions, the response was that they were unable to leave the appointed post; on others, the attitude was that one Muslim killed, was one Muslim less.”²⁰

By all accounts then, in addition to police bias and inaction, in Mumbai in late 1992 and early 1993, the local police was also ill-prepared to deal with a communal riot. Information gathering was minimal and not transmitted to the designated *thanas* (local police station, or precinct) in time. The police did not curb religious mobilisation done by both communities – Hindus and Muslims – in the form of prayer meetings and processions, pamphleteering and Shiv Sainiks delivering public speeches inciting people to violent action. In addition, the number of police personnel, their weapons, transport, communications and leadership were deemed to

19 See Srikrishna, B. N. 1998. The Srikrishna Commission Report into the Bombay riots of December 1992, January 1993 and the Serial Bomb Blasts in March 1993.

20 See *ibid.*

be “inadequate” by the commission for the purpose of riot policing. The police had never thought it fit to maintain lists of habitual communal offenders or *goondas* and the report recommended that this list be created and maintained for future deterrence in such situations.²¹

In both situations, New Delhi in 1984 and Mumbai in 1992, the army was not called in time to control the situation. In New Delhi, the General Officer Commanding, reportedly asked political officials if the army should step in but was told that the situation was under control, until a week later, when the army was asked to step in. In Mumbai, the army was alerted but the various columns were only used for flag marches – a show of strength by men in fatigues – that, according to the Srikrishna Report, “had no psychological effect on the rioting mobs”. No operational role was given to the military either because the police overestimated their capacity or because of reluctance to have the army assist them in policing.²²

In contrast to these reports, the Gujarat government’s report headed by Justices Mehta and Nanavati is of a different tenor. Independent reports notwithstanding, the official report does not implicate the Gujarat police and focuses only on the Godhra train burning. In fact, the report’s mandate clearly states that it is to also investigate the post-Godhra rioting, but the report does not reflect any investigation into the rioting and/or the conduct of the police or political officials. The only concession made about the role of the police is that individual *thanas* and their officers had filed information before the Mehta-Nanavati Commission in the form of action-taken reports. Finally, at the end the report states,

“There is absolutely no evidence to show that either the Chief Minister and/or any other Minister(s) in his Council of Ministers or Police offices had played any role in the Godhra incident or that there was any lapse on their part in the matter of providing protection, relief and rehabilitation to the victims of communal riots or in the matter of not complying with the recommendations and directions given by National Human Rights Commission.”²³

This is at odds with two independent reports each by the National Human Rights Commission (NHRC) and Human Rights Watch as I discuss below.

The NHRC report came in the form of three sets of recommendations that the

21 See Srikrishna, B. N. 1998. The Srikrishna Commission Report into the Bombay riots of December 1992, January 1993 and the Serial Bomb Blasts in March 1993.

22 See *ibid.* Also see, Nanavati, G. T. 2005. Report of the Justice Nanavati Commission of Inquiry into the Anti-Sikh Riots, 1984. New Delhi.

23 See G.T. Nanavati, 2008. Report by The Commission of Inquiry into the facts, circumstances and all the course of events of the incidents that led to setting on fire of some coaches of the Sabarmati Express Train on 27.2.2002 near Godhra Railway Station and the subsequent incidents of violence in the State in the aftermath of the Godhra incident.

Gujarat government was non-committal about. In May 2002 the NHRC came out with the Final Order on Gujarat, seeing the light of day after months of bureaucratic red tape and lack of official and pertinent response from the Gujarat government.

In many ways, the NHRC report echoed the Srikrishna Commission report. Even after the arson attack at Godhra no preventive arrests were made under Section 144 of the Criminal Procedure Code. In addition to this, reports indicated that the Gujarat police refused to act on behalf of Muslims. Some reports also claim that omnibus FIRs and FIRs that did not name the accused were filed and that unprofessional investigations were carried out. There was no action against activists of the Vishwa Hindu Parishad or the Bajrang Dal who allegedly participated in the violence and no use of the Disturbed Areas (Special Courts) Act, 1976 and the Prevention of Damage to Public Property Act, 1984 (Subramanian, 2003).

IV. Suggested Changes to the Institution of Policing

All three reports under discussion have suggested wide-ranging reform to the Indian police system from more modern weaponry and learning from riot control practices of other democracies to attitudinal changes required.²⁴ The NHRC report had recommended that Special Cells be constituted under the concerned District Magistrates to follow the progress of cases not entrusted to the CBI and that these were to be monitored by the Additional Director General (Crime). The State government accepted the role proposed for the latter, but did not confirm if appropriate action was taken. The Commission had recommended that specific timeframes be fixed for the thorough completion of investigations. The State government accepted this recommendation, but it did not spell out what the timeframes were.

The NHRC further advised police desks in relief camps and asked for a comprehensive survey and accounting of all victims of the violence. It also asked the prosecuting bodies to use the material collected by NGOs and other independent tribunals that surveyed the aftermath of the violence. Another interesting aspect of the NHRC report was to seek accountability from the media for making provocative statements and shifting the burden of proof onto media personnel. It also recommended the identification of delinquent public servants and appropriate disciplinary action to be taken against them.

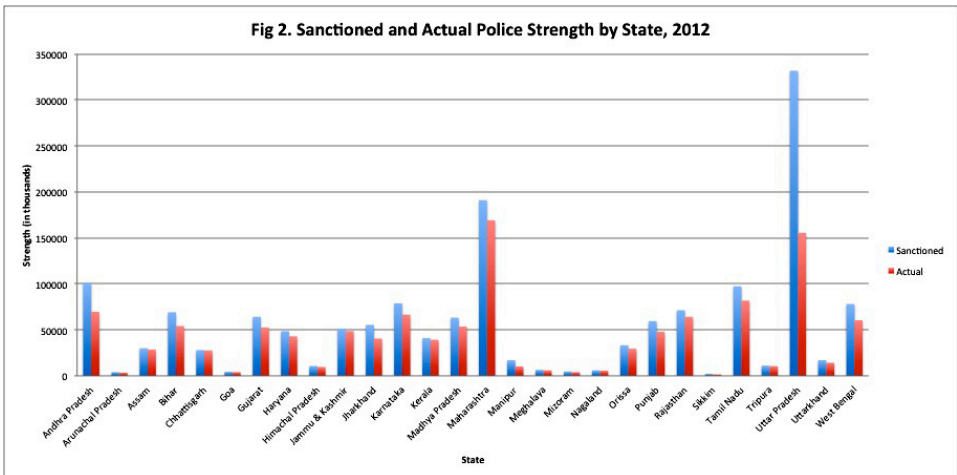
Comprehensive recommendations were suggested by the Srikrishna report which even found police personnel lacking in physical fitness and categorically stated that such personnel should be taken off active duty and sent on leave till such time as they regained their fitness levels. In addition, the report called for communal *goonda* lists to be maintained and shared widely, and that police personnel be given mid-career re-training since it seemed many did not know basic procedures of even filing an FIR correctly and could therefore not be called on to make decisions in sync with the Constitution, if they had no memory of what powers they had or did not have. In many cases during the Mumbai riots, police firing was excessive and resulted in deaths. The location of injury revealed that several standard procedures of mob control (shooting below knee-level at first) were not followed. Police was described as 'lackadaisical' in attitude especially when asked about follow up witness interviews and filing charge sheets against miscreants.²⁵

24 Srikrishna, B. N. 1998. The Srikrishna Commission Report into the Bombay riots of December 1992, January 1993 and the Serial Bomb Blasts in March 1993.

25 See *ibid*. Also see the Human Rights Watch report on Gujarat, 2002. "We have no orders to save you": State Participation and Complicity in Communal Violence in Gujarat. India: Human Rights Watch.

V. What Hinders Institutional Learning in the Indian Police?

Thus far I have established not only that the Indian police is biased, but also that people broadly perceive it as being biased against certain groups of people in society. Now comes the harder part, which is to analyse why in spite of repeated sermons about improving the quality of policing, especially in situations of communal riots, the same patterns of police behaviour repeat themselves on separate occasions. To look into this a bit more systematically, I first looked at some indicators of police strength across States from the most recent report by the Bureau of Police Research and Development (BPRD) called “Data of Police Organisation: 2012”. The BPRD makes a distinction between sanctioned police strength and actual police personnel on the ground. In 2012 several States had lower actual police strength (combining civilian and armed police) than was sanctioned for the State. Figure 2 illustrates this point.



Source: Data on Police Organisation, 2012 Bureau of Police Research and Development.

In previous years the actual strength of the police has similarly lagged behind the sanctioned strength. Lower numbers of police also translate into poor police-population ratios and signal that the local police are often overburdened. The Srikrishna report also points to this as a causative agent of increasing communal incidents in Mumbai in 1992 and 1993. Anyone’s first instinct is therefore to make the argument that policing in India, or inability to police thereof, can be explained by the very simple idea that there are simply not enough numbers of police personnel in key areas.

But as I have established in earlier sections of this paper, inability to police is not

the same as unwillingness to police and it is the latter that is most worrying. I concede that numbers of police matter, but in each case of communal violence under discussion, the numbers of personnel policing could have been adequately doubled or even tripled by calling in the regular army to keep the peace, a decision that in some cases came a few days too late.

Second, I look at the training provided to different levels of police personnel in India. For this I accessed the BPRD's training modules and also got feedback on the training process from a few IPS officers. What I learned is that the most comprehensive syllabus is offered to officers at the level of Deputy Inspector General and above. For constables and sub-inspectors the number of sessions on topics relevant to riot policing, maintaining public order, unlawful assembly and interfacing with minorities, diminish in number. However, the sessions dedicated to dealing with riots remains the same for the constable and sub-inspector level, i.e, two sessions. In each case the number of sessions devoted to a particular topic at the sub-inspector and constable level does not exceed four. Finally, an IPS officer revealed that during training, the class spent much time discussing riot case studies and what could have been done to prevent them. The classes often had guest speakers who recounted particular incidents in which they had been involved in riot policing. The same officer also categorically stated that as a trainer himself, his men and women were exposed to the most rigorous training for handling mob situations that occurred as short flashes in society, or on a more prolonged basis as organised riots.²⁶

So if training of the police for riot situations does occur and from what we have heard so far, a substantial chunk of training time is spent on scenario building and case studies, why do instances of police bias occur so frequently?

I advance the following possible explanations and suggest that these be taken up more seriously as future arenas of inquiry into governance in India. First and foremost, are the signals and reports I got in the process of writing this paper, by looking at the inquiry commissions and from those interviewed that there is political interference in the job of policing. All reports on all cases we have discussed have mentioned this either in the form of intimidation of police officers in Delhi, or edicts to the Mumbai police to "go easy" on the rioters in Mumbai or even with a lone policeman quoted in the Human Rights Watch report who stated to a Muslim crowd that there were no orders to save them.

A second factor I have been able to isolate but not concretely establish yet, is that on the ground leadership by senior police officials affects the actions of the local constabulary and may be able to make it more non-partisan, assuming that the higher official encourages such non-partisanship. The reports do indicate that where senior

²⁶ Interview with IPS officer stationed in Bihar. Interview given on conditions of anonymity.

officers acted, directed and made arrests, deaths were lower in number. This is best evinced in New Delhi in 1984.

Third, I advance the argument that in India, police training centres, while doing what they think is adequate to equip local police to combat riot situations are unable to combat attitudinal biases because they simply do not recognise that it exists or may think that it has been broken down through training. An IPS officer expressed deep scepticism about the validity of the inquiry commission reports saying that the police are blamed to absolve the politicians and that in his experience of being in the Indian police the men and women under him acted on a non-partisan basis.²⁷ Of course, the only training modules found for any sort of group sensitisation came with respect to gender and weaker sections. But even there, I am unsure as to how effective two sessions on gender sensitisation can be to overcome a history of deep-rooted sexism within Indian society. I do think, however, that this is a step in the right direction.

Finally, I would also like to point out that most local levels of the police are not given any mid-career refresher courses that may include drilling substantially into their training the necessity to be non-partisan. In effect, I argue that the lack of recognition of the problem of bias by the training institutions of the Indian police (that are quite few in number in any case) and by police personnel themselves translate into a continuation of societal biases by the police against certain groups of people. Most police personnel in India at lower ranks are recruited from semi-urban and rural backgrounds where structures of social domination and perception of other groups of people and women have remained unaltered and unchallenged for a long time. It cannot be expected that a year of training will effectively counteract these perceptions and prejudices in all cases throughout the country. When politicians and political parties encourage particularly negative perceptions of minority groups and when these are reinforced through the actual societal context in which policemen exist, as the Srikrishna Commission points out, we are going to see biases prevail and affect the manner of functioning of local policemen.

²⁷ Interview with IPS officer stationed in Bihar. Interview given on conditions of anonymity.

VI. Conclusion

It is interesting to note at this juncture how T.B. Hansen explains the Srikrishna Commission report and its importance to the Indian polity. Hansen attempts to comprehend how the Indian state seeks to sustain the ‘myth of the state’ as sublimely sovereign and how it thereby legitimises itself as the guarantor of security and justice for its citizens. After the Mumbai riots, the Maharashtra government set up the Srikrishna Commission whose lengthy public proceedings exposed the partiality of the state and the collusion of the Shiv Sena in encouraging rioters. Hansen argues that the commission and the court proceedings can be seen as state spectacles, public displays of the state as a producer of impartial and universal justice, but both revealed as well the profane sides of state power in the form of brutality and misconduct by politicians, officials and police. However, he argues that we cannot conclusively gauge to what extent the report helped in restoring the myth of the state, yet what is important is that the Shiv Sena defined itself negatively or positively in relation to the authority of the state (Hansen, 2001). Inquiry commissions in India may serve to legitimise the authority of the state, or as Ashforth puts it, they are “reckoning schemes of legitimation” that reproduce ideas of the state for public consumption in addition to being commissions that establish historical fact (Ashforth, 1990).

There needs to be more research, both qualitative and quantitative, into factors that explain variation in the behaviour of Indian police over time and across States. An agenda of future research could look into best practices developed by certain States and countries. There is a lack of borrowing best practices from other federal states in India by other States that could explain variation not only in policing, but also in other spheres like healthcare reform, delivery of goods and services and combating insurgency.

Select Bibliography

Human Rights Watch Report. 2002. “We have no orders to save you”: State Participation and Complicity in Communal Violence in Gujarat. India: Human Rights Watch.

Arnold, D. 1976. The police and colonial control in South India. *Social Scientist*, 3-16.

Ashforth, A. 1990. Reckoning schemes of legitimation: On commissions of inquiry as power/knowledge forms. *Journal of Historical Sociology*, 3, 1-22.

Brass, P. R. 2005. *The production of Hindu-Muslim violence in contemporary India*, Univ of Washington Press.

G.T. Nanavati, 2008. Report by The Commission of Inquiry into the facts, circumstances and all the course of events of the incidents that led to setting on fire of some coaches of the Sabarmati Express Train on 27.2.2002 near Godhra Railway Station and the subsequent incidents of violence in the State in the aftermath of the Godhra incident.

Hansen, T. B. 2001. Governance and myths of state in Mumbai. *The everyday state and society in modern India*, 31447.

Mitra, S. K. 2005. *The Puzzle of India's Governance: Culture, Context and Comparative Theory*, Routledge.

Nanavati, G. T. 2005. Report of the Justice Nanavati Commission of Inquiry into the Anti-Sikh Riots, 1984. New Delhi.

Srikrishna, B. N. 1998. The Srikrishna Commission Report into the Bombay riots of December 1992, January 1993 and the Serial Bomb Blasts in March 1993.

Subramanian, K. S. 2010. Socio-Political Violence and the Crisis of Governance in South Asia.

Subramanian, K. S. 2003. Socio-Political Violence and the Crisis of Governance in South Asia: A Preliminary Exploration *ATWS Monograph, JMI*.

Wilkinson, S. I. 2006. *Votes and violence: Electoral competition and ethnic riots in India*, Cambridge Univ Press.



THE HINDU CENTRE

for

Politics and Public Policy

Published by :

The Hindu Centre for Politics and Public Policy
Kasturi Buildings, 859-860, Anna Salai,
Chennai - 600 002, Tamil Nadu, India

Web: www.thehinducentre.com

Phone: +91-44-28524445

+91-44-28538155

Email: thc@thehinducentre.com