

Sustainable solutions to the South African police use of force during public gatherings and major events: Undemocratic police under a democratic government

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Abstract: This study explored the views and perceptions of South African police officials on the use of excessive force by the South African Police Service (SAPS). Research has shown that for the police to be effective in handling public gatherings, the community is expected to obey the law and the police must enforce the law. Although obedience is expected from members of society towards police officials, disobedience occurs frequently, to the extent that police officers require sufficient skills to manage crowds, especially the disgruntled and the hard to manage. Although many studies abound on police excessive use of force in South Africa, with suggestions and recommendations on how the menace can be curbed, but this unacceptable conduct by the police persist unabated. A plausible reason could be the fact that the focus of most of these studies revolves around public perception or the views of specific segment of the society. However, the accounts of senior police officers - who are experts in the profession, especially those within the specialised units responsible for public order and crowd control management, are often jettisoned. No doubt their views would be valuable for policy intervention, considering their wealth of experience in the profession. Unfortunately, academic writings on this are sparse, hence this contribution of this paper.

From the findings of a doctoral study that was undertaken using the qualitative research method, this study specifically considers the views and perceptions of South African police officials on the use of excessive force in public gatherings and major events. The participants in this study comprised 23 police officers, which included senior and middle management, who ranged from unit section heads, section commanders, unit commanders, policy and standards officers, information officers, to video operators and trainers. The participants were stationed in Gauteng (Pretoria), KwaZulu-Natal, and the Eastern Cape. By using open-ended questions in a structured interview, the researcher increases the chances of obtaining rich and detailed responses that can be used for qualitative analysis. Interview times ranged from 20 to 30 minutes, with a few exceptions with experts in the field going over 50 minutes. An audio recorder was used to record the interviews. To maintain confidentiality, identifiers in the form of dates and numbers were used to code the transcriptions. In other words, the transcriptions bore no names, only numbers and dates. The interviews ceased when data saturation was reached; that is when information was repeated without any new views being presented.

A summary of the key findings indicates that there is complete mistrust by communities in the use of force by the South African police. The findings of the research show that there was a divergence of views regarding the level of trust towards the police among police officials. The use of force by the police is still prevalent in South Africa, and such ruthlessness portend serious threat to law and order in the country. The shortage of police officials in the POP environment has become a huge challenge to dealing with sporadic or unplanned public gatherings that range from service delivery protests to political activities by dissatisfied members of the community. The tendency of authorities to deploy an insufficient number of members or a disproportionate number of members to deal with threat usually contributes to the use of excessive force by members of the police.

Recommendations are made for Public Order Policing (POP) Units and Tactical Response Teams (TRTs) to be capacitated in terms of human and physical resources. A further recommendation is that the SAPS doctrine must guide and support POP in respect of the right to peaceful gatherings. It must be in line with the objective of the crowd management doctrine of the SAPS and be defined in terms of the principles of intervention during crowd management.

Keywords: Democracy, Major events, public gatherings, South African police, Use of force.

Introduction

In recent years, South Africa has been adversely affected by service delivery protests, which in most cases turn violent and result in great damage to properties and even the loss of lives (Civilian Secretariat for Police, 2017). The violent nature of some of these protests necessitated the deployment of police officers to the troubled spots. Broadly, the South African Police Service (SAPS) has a constitutional mandate as an institution to enforce the law, maintain order in society, and create a safe and secure environment for all citizens (Civilian Secretariat for Police, 2017:4). While on duty, especially during public protests, members of the SAPS are at times confronted with situations where they must engage in the use of force to forestall any break down in law and restore order (see Morgan, 2011:1). By principle, such level of force should be minimal and commensurate to what is needed to restore order (Morgan, 2011:1).

Of interest in this article is that given the preliminary explanations on the necessity for the police to use force, and that the use of force must be commensurate to the amount required to restore order, there are concerns about the spate of fatalities that have occurred as a result of police excessive use of force in public domain. Although incidents involving police violence or excessive use of force have frequently received attention in the media, by legislators, the judiciary and the academics, comparably (Civilian Secretariat for Police, 2016a:21); yet there seems not to be any solution to this malaise in sight, at least, for now. Moreover, the various changes in policing approaches and techniques in the past few years have not produced any result. Rather, they have attracted barrage of criticisms from different angles (Civilian Secretariat for Police, 2017:19; Berning & Mashiloane, 2011). The national and international concern arising from the tragic incident at the Lonmin Mine in Marikana in the North West province in August 2012, as mentioned by the Marikana Commission of Inquiry in 2015, is still fresh in the hearts of the citizens. Why do the police continue to use excessive force in public domains, especially during public protests despite its wide criticisms?

Although many studies abound on police excessive use of force in South Africa, with suggestions and recommendations on how the menace can be curbed, little or no result has been generated. A plausible reason could be the fact that the focus of most of these studies revolves around public perception or the views of specific segment of the society. However, the accounts of senior police officers - who are experts in the profession, especially those within the specialised units responsible for public order and crowd control management, are often jettisoned. No doubt their views would be valuable for policy intervention, considering their wealth of experience in the profession. Unfortunately, academic writings on this are sparse. Hence, the need for this current study. The objective of the study is to explore the perspectives of SAPS members on the use of excessive force during public gatherings and major events. The study will provide adequate information on the factors that promotes the use of force during public gatherings in South Africa, and how to curb it.

Literature review

After the African National Congress (ANC) won the first democratic elections in South Africa on 27 April 1994, the new government announced some reforms aimed at transforming the police, and the entire policing landscape in the country. The steps to realising the reforms were stipulated in two policy documents - the Green Paper and the White Papers on Safety and Security between 1998 and 2017. The Minister of Safety and Security, on 25 May 1994 in Cape Town, specifically stated that in terms of police principles and reforms, some of the following will be adhered to: transparency; efficiency; a move from a force to a service, and changing the attitudes and thinking of police members, to mention a few. These changes were informed largely by the provisions of the Interim Constitution of the Republic of South Africa (Act No. 200 of 1993), in particular by the Bill of Fundamental Rights in Chapter 3, and the provisions of Chapter 14 (see Civilian Secretariat for Police, 2016b:9). In the following years, in particular during the period 1994 to 1998, a number of statements were made by the first Minister of Safety and Security, as well as the Draft Policy Document on Change, as indicated by the Civilian Secretariat for Police (see Civilian Secretariat for Police, 2016b).

Despite these reforms, the problem of excessive use of force by the police still persists, especially during policing of public protests and public gatherings. Notable examples are the shooting and killing of mine workers who were protesting at Marikana (Farlam, Hemraj & Tokota, 2015); the killing of Mido Macia, who was dragged by a police officer in a police van (Bruce, 2002:2); and that of Andries Tatane, who was shot and killed during a protest. All these are microcosm of accounts on police brutality (as a result of excessive use of force) in South Africa. There are other credible evidences of police highhandedness that culminated in serious fatalities in both public and private domain. Police excessive use of force poses serious threat to police-public relations, and undermines the very essence of nationhood (Shange, 2015:2).

Faull and Newham (2011) affirm that the use of paramilitary tactics such as force in dealing with public tension is common in South Africa. Such approach can be explained and understood within the context of the country's high crime rate, high violence levels, and poor service delivery. Most of the demonstrations are attributed to the state of paralysis and the dysfunctional status of most municipalities in the country. Protests or demonstrations are some of the actions that accompany democracy on a global scale. However, the use of excessive force to disperse protestors are inimical to the tenets of democracy. It also erodes public trust in the police, which is a key factor for effective policing in modern day society (Civilian Secretariat for Police, 2017:5).

Due to the nature of their work, the police are among the institutions and occupations from which the public expects the highest confidence and trust (Civilian Secretariat for Police, 2016a:36). Various police studies identified bad manners as the most frequent complaint that citizens have against the police. This sentiment is echoed by Tait and Marks (2011:15), who are of the view that the South African community feels that the police are lacking in various standards that are expected of them, particularly when policing public protests. Klahm and Tillyer (2010:214) argue that this action has been studied since middle of the 20th century. Initially, the police's use of normal and non-lethal force received scanty or limited attention, and it was not until the mid-1980s that non-lethal force became a popular topic for academics.

Owing to increasing incidences of brutality by the police, the commitment by citizens to comply has equally diminished drastically in the country. For instance, police brutality was aired in November 2000 on the South African national television programme "*Special Assignment*", where members of the North-East Rand Dog Unit were shown assaulting and racially abusing three illegal immigrants from Mozambique and setting dogs on them as a training exercise. Such ruthlessness is not only condemnable, and a gross violation of many rights enshrined in the 1996 Constitution of South Africa, and other ancillary regulations, it is also a clear indication that apartheid system of policing is still operational in the SAPS, especially in current democratic dispensation. It also shows that renaming of police nomenclature and introducing numerous reforms do not always translate to professional policing.

It is important to understand the nature and extent of the use of force by the police for a variety of reasons. The phrase "police use of force" "has a negative connotation that implies cruel, harsh, or brutal treatment and evidence suggests that these incidents erode community attitudes toward and trust in the police" (Lim & Lee, 2015). In addition to the deleterious effects on police-community relations, incidents where police use force can be very costly for the SAPS in terms of civil litigation and pay-outs and resource expenditure. Dereymaeker (2015:14) states that a large portion of claims for civil damage are made by individuals and claims are directed to the Minister of Police regarding alleged unlawful actions by police officials.

Contrastingly, authors have argued that the police may use force under certain conditions (Strickland & Taylor, 2011; Menzies, 2012). Strickland and Taylor (2011: 4) specifically indicate that the police may use force that is reasonable under the circumstances in the prevention of crime or effecting an arrest of offenders. Moreover, the use of force through forceful arrests is supported by section 49 of the Criminal Procedure Act (Act 51 of 1977 as amended), which provides police officers with legal justification to use force if needed in carrying out arrests. Botha and Visser (2020) also argue that the use of force in a bid to effect arrests is legitimate in certain situations of the law. The challenge, however, is that there is clear-cut explanation or clarification on what exactly is 'reasonable' use of force, and under what circumstances can the factor of reasonability be activated. Such ambiguity in the law may accounts for some lawlessness and arbitrariness on the part of the police, when tension arises between them and the public, especially during mass protests. Such ambiguity also raises concern about the place of discretion in police operations.

For instance, Feltoe (1991) contends that a person may be arrested unlawfully without any valid warrant of arrest if there is a belief that it can be obtained if applied for at a later stage. Force may therefore be applied in the process of, for example, when police officers arrest first and investigate later, which is perceived as a police tendency, as shown by Feltoe (1997:26). Most unlawful arrests occur where excessive force is used, and this is because of police officers failing to properly exercise discretion. In the case of Mido Macia, whereby police arrested him and dragged him behind

a police van in the street of Deveyton Township in the Gauteng province, South Africa, on 26 February 2013, the police said that Macia had caused a traffic jam and resisted arrest when attempts were made to arrest him. The police officers were later all found guilty of unnecessarily using excessive force (BBC News, 2015).

Menzies (2012:5) further indicates that crowd behaviour at times tends to be influenced by the way the crowd is policed, especially when the police obstruct the crowd's right to protest or gather. The crowd can unite in a more aggressive manner towards the police, which in turn can lead to the use of force by the police. Proper training of the police officials who deal with crowd management will enable them to read and assess the situation correctly and respond in a way that will not exacerbate the situation. However, the excessive use of force conflicts with the ethics of duty and, most importantly, with the SAPS's code of conduct (Kleinig, 1996:49). Beckley and Neyroud (2011:138) argue that police officers are repeatedly at the edges of corruption and operate beyond the limit of respectability. This therefore exposes police officers to accusations of misuse of force (Beckley & Neyroud, 2011:137). The above highlights that the nature of the work exposes the police to the urge to use unnecessary excessive force

Bolstering the argument further from an international standpoint, Bazelon (2020:1) asserts for instance that on 25 May 2020, police officers arrested George Floyd, a 46-year-old black man, after a deli employee accused him of buying cigarettes with a counterfeit \$20 bill. The police were summoned to the scene, and Mr Floyd was pinned by a police officer with the knee on the ground until he was unconscious and showing no signs of life. The reconstruction of the scene by the *New York Times* that led to the death of Mr Floyd showed how violently he was handled by the police. The video showed the Minneapolis Police Department leaving Mr Floyd unable to breathe, even as he was pleading with the police officers and onlookers called out for help.

The video showed how the police officer, Mr Chauvin, kept his knee on Mr Floyd's neck for almost eight minutes, even as Mr Floyd pleaded to the said police officer that he was unable to breathe. Four other police officers were also involved in the incident and on 29 May 2020, all four police officers were fired from the police department and the Hennepin County Attorney, Mike Freeman, announced murder and manslaughter charges against Derek Chauvin, the police officer who was clearly seen on the video pinning Mr Floyd to the ground even when he was pleading for his life and not acting violently against the police.

Police use of force in South Africa

South African police officers have on several occasions used force to disperse crowds during protests. At times, the use of force by the police towards protesters is unnecessary. In most cases when the police deal with public protests in South Africa, the crowd is usually dispersed by using teargas, water cannons, and at times firing rubber bullets at the protesters if the protesters fail to obey instructions from the police (Mkhwanazi, et al, 2020; Civilian Secretariat for Police, 2016a:5). This approach by police officers is guided by the SAPS Act of 1995, which states that the police may use only the minimum force that is reasonable for certain circumstances. As stated above, mechanisms are in place to assist the police in South Africa to manage public order without using force, especially when there are protests. When protests turn violent, protesters often loot surrounding shops and police officers disperse the demonstrators using force.

The incidents presented previously with regard to Marikana where 34 people were shot and killed by the SAPS for protesting and where Andries Tatane was shot and killed during a community protest in Ficksburg serve as sufficient proof that the police in South Africa are not hesitant to use force (Civilian Secretariat for Police, 2016a:13). Tait and Marks (2011:17) further indicate that the death of Andries Tatane at the hand of the police in Maqheleng outside Ficksburg in April 2011 created a poor image for the POP Units and the SAPS as an organisation.

The Tatane incident is not isolated; however, it received more public attention than other similar instances as it was broadcasted live and carried by major newspapers and television channels (Tait & Marks, 2011:17). Tait and Marks (2011:17) argue that the extreme use of force by the police led to the condemnation of the police by the press, human rights groups, and politicians. Tatane's death is the symbol of injustice, poor policing, and lack of responsiveness by the government. Tait and Marks (2011) further argue that soon after 1994, the SAPS began to address the need to ensure democratic POP. Michael (2013:1) argues that the April 2011 killing of Andries Tatane brought the attention to the increase of lethality of police crowd control tactics. Michael (2013:2) further argues that the SAPS was reverting to its apartheid role as the brutal enforcer of state power, which appeared to have reached a new nadir in the killing of 34 miners at Lonmin Mine in Marikana on 16 August 2012. Tait and Marks (2011:1) state that most marches or protest actions in South Africa result in injuries or death. Protest movements are often characterised by violence, which leads to death or injuries (Michael, 2013:1).

Another case where force was used is that of Mido Macia, a Mozambican who was dragged by a police van through the streets in Germiston, Johannesburg, and who later died of head wounds while in custody (Bruce, 2020:6). The police officials involved in the act were later found guilty of unlawfully applying excessive force. The case of Mido Macia, who was accused of resisting arrest, was a revelation that excessive use of force is most likely to be applied by police officers when members of society do not comply with the law and resist police arrest; the use of force will therefore remain unavoidable on the part of the police (Skolnick & Fyfe, 1994:1). This is further supported by the killing of innocent Mthokozisi Ntumba on 25 March 2021 at close range with a rubber bullet at the University of the Witwatersrand (Koka, 2022). The victim was an innocent bystander and was shot and killed when shots were fired during a student protest in Braamfontein. Emanating from the arrest of the former state president, Jacob Zuma, on 7 July 2021, a number of incidents occurred as from 9 July 2021 following sporadic incidents on 8 July 2021 of blockages of roads in the early morning on different freeways.

On 9 July 2021, a number of road blockages, damage to properties, and looting of malls occurred. These incidents were accompanied by a number of people killed and infrastructure damage estimated at R300 billion. The unrest and looting began in the province of KwaZulu-Natal on the evening of 9 July 2021 and spread to the Gauteng province, which were in some degrees orchestrated based on evidence that emerged (Kana, 2022). It is alleged that the plan was exported by a group of people who were linked to conspiracy, who arrived in Johannesburg from KwaZulu-Natal on 10 to 11 July 2021, which is where the looting and the destruction of the infrastructure and looting of malls were targeted (Bruce, 2021).

The consequences police excessive use of force

In South Africa, Bruce (2016) notes that South African police officers have been prosecuted from time to time in the court of law for unnecessary use of force during protests. Tyler, Goff and Maccoun (2015:1) move the discussion away from a focus on what is illegal or effective in crime control towards a concern for how the actions of the police influence public trust and confidence in the police. This shift in the discourse has been motivated by two factors. The first is the recognition by public officials that an increase in the professionalism of the police and a dramatic decline in the crime rate have never led to police legitimacy. The second is greater awareness of the limit of the domain coercive model alternative and a more consensual model based on public trust and confidence in the police and legal systems.

Recent polls suggest that many Americans do not feel that the police are adequately held accountable for their actions, treat racial groups equally, or use the right amount of force. This lack of trust undermines the legitimacy of law enforcement and creates an unequal society in which some feel comforted by law enforcement, while others feel suspicious and distrustful (Bennell *et al.*, 2021). Members of the community are more likely to feel safe and cooperate with investigations if they trust law enforcement. It is in the best interest of all stakeholders to understand and build trust in law enforcement. Trust in law enforcement is essential for the belief in the legitimacy of law enforcement or to feel an obligation to obey the law and defer to decision made by the legal authority (Bennell *et al.*, 2021).

Research has shown that the perceived legitimacy of law enforcement is crucial to effective law enforcement (Cheatham & Maizland, 2021; Bello & John-Langba, 2020a, 2020b; Bello & Matshaba, 2020). Cheatham and Maizland (2021:8) indicate that a study in New York City, where 830 residents were predominantly either White, Hispanic, or African American, examined whether the perceived legitimacy of the police, which included measures of trust, obligation, and confidence in the police, produced increased cooperation with police in law enforcement efforts (e.g., reporting crime, assisting law enforcement officers) over time. However, the results also showed that trust was significantly related not only to cooperation with the police but, to a lesser extent, also with cooperation with others in the community. The research also demonstrated that minority groups have consistently shown less trust in law enforcement. This difference in trust is affected by two factors. Firstly, minority groups report having more direct negative personal experiences with law enforcement. Furthermore, there is evidence of discrepancies in procedural justice outcomes, where minority groups are disproportionately incarcerated (Bennell *et al.*, 2021).

Methods

Research methodology refers to the process that researchers follow to achieve the objectives of their study (Mamabolo & Sebola, 2014). For the purposes of this study, a qualitative method was utilised. Qualitative approach is designed to understand situations in their uniqueness, as part of a particular context, and their interactions (Creswell, Hanson, Plano Clark & Morales, 2007). In this study, the phenomenon of interest was the use of excessive force by members of the POP Units and TRTs in Gauteng (Pretoria), KwaZulu-Natal, and the Eastern Cape. This approach is believed

to enable the researchers to corroborate, elaborate, and illuminate the research question so as to gain a deeper and clearer understanding of an issue and its context.

The researcher compiled structured and semi-structured questions for the participants. The researcher allowed the participants to ask questions or comment at the end of the session, as well as during the sessions to avoid confusion. The researcher ensured that the questions asked did not offend the participants or make them uncomfortable. The researcher ensured that when taking minutes that the names of the participants were kept confidential during and after the process.

The study was also carried out in line with Tshwane University of Technology (TUT) ethical guidelines for conducting research with human participants. Beyond TUT approval, permission to conduct this study was also granted by the SAPS authority.

The questions in the structured interviews were open-ended in nature and covered a wide range of role players involved in dealing with public gatherings and major events, who are experienced, knowledgeable, and involved in law enforcement. Babbie (2007:246) believes that the advantage of using open-ended questions in an interview is that they allow the participants to give meaningful and in-depth reflections and answers to the questions without being “pigeon-holed” into a predictable paradigm. By using open-ended questions in a structured interview, the researcher increases the chances of obtaining rich and detailed responses that can be used for qualitative analysis.

Interview times ranged from 20 to 30 minutes, with a few exceptions with experts in the field going over 50 minutes. An audio recorder was used to record the interviews. To maintain confidentiality, identifiers in the form of dates and numbers were used to code the transcriptions. In other words, the transcriptions bore no names, only numbers and dates. The interviews ceased when data saturation was reached; that is when information was repeated without any new views being presented. The researcher was the facilitator of these structured interviews.

Participants’ biographical information

The participants in this study comprised 23 police officers, which included senior and middle management, who ranged from unit section heads, section commanders, unit commanders, policy and standards officers, information officers, to video operators and trainers. The participants were stationed in Gauteng (Pretoria), KwaZulu-Natal, and the Eastern Cape. The biographical data of the participants are presented according to rank, work experience, and age bracket in table 1 below.

Table 1: Biographical representation of study participants.

Rank	Department	Age	Experience	Number	%
Brigadiers	Section heads	26-35	25-28 years	2	9.09%
Colonels	Unit commanders	36-45	22 years	4	18.18%
Lt Colonels	Unit commanders	36-45	18 years	5	22.72%
Captains	Unit commanders	36-45	15 years	2	9.09%
Warrants	Video operators & section commanders	36-45	12-16 years	2	9.09%
Sergeants	Training & information officers	28	12 years	5	22.72%
Constables	Information officers	25	8 years	2	9.09%

Data Analysis

After data collection, collation was done. This was accompanied by preliminary analyses through thematic coding. This was achieved after initial review was done to determine emerging themes. A summary of the emerging themes and discussions are presented below. To determine the validity of our findings, we relied heavily on the credibility of the views of the participants. That is, our findings were essentially drawn out of the abundance of the views of the participants. To achieve that, the authors relied heavily on participants’ voluntary participation and honesty, and assurance of anonymity and confidentiality of information provided, to mention a few. The next section focuses on the findings from the emerging themes and discussion.

Findings and discussions

Prevalence of police excessive use of force

In South Africa, police officers on several occasions have used excessive force to disperse crowds during protests. In most cases when the police deal with public protests in South Africa, the crowd is usually dispersed by using teargas, water cannons, and at times firing rubber bullets at protesters. The SAPS Act of 1995 states that the police may use only minimum force that is reasonable for particular circumstances.

To answer the question – “Why do our police members still use force during public gatherings and major events, even when they know it should be the last option?” – the participants were requested to provide their views, experiences, and observations on the use of force during public gatherings and major events.

“With the number of sporadic spontaneous events that are not planned by the communities, there are always not enough members from the Public Order Unit to be deployed and deal with the situation amicably. The police officials from the Public Order environment are always outnumbered [at] the events. The failure to take full responsibility by the officials always contribute[s] to the lack of command and control, which contributes to the use of excessive force [that is] unnecessary.” (Participant 1)

Inadequate training of SAPS (POP & TRT) members on crowd management

The SAPS should have the capacity to perform its public order role effectively, including protecting the right to peaceful protest and responding to violence and crime associated with gatherings. The Panel of Experts after Marikana called for better use of POP resources, including an improved command model for large and complex operations. It also indicated that operational commanders need specialised training. Better policing tactics would also help, considering the limited effectiveness of firing rubber bullets at looters. The participants were requested to provide their observations with regard to whether training is sufficient to transform all members to be able to police in the new dispensation.

The question posed to the participants was: “After 1994, all members in the SAPS were retrained especially in human rights and other programmes to conform to a democratic policing standard. Do you think the training was sufficient to transform all members to be able to police in the new dispensation? Give reasons for your answer.”

“Yes, the training presented that time maybe [was] sufficient by then, but now all or some of those members who received the training are now retired; if not, that majority are close to retirement and some had resigned. Physically and mentally some of them are no longer coping with the number of protests that range from service delivery, labour, foreign sentiments, and transport. They are pushing time to go for pension and are no more interested in providing service to the community. All what they are doing, they are protecting their interest, especially their pension.” (Participant 3)

“In some instances, the old members benefited a lot from the training programme; however, these are the same members who are not prepared to impart their knowledge to young members. The downfall in this project was that the monitoring and evaluation of this programme were not conducted after the presentation of the programme. This was going to assist with measuring of the impact and the value for money thereof. It is vital that this programme be reviewed and provided to junior members so that they can professionally do their job.” (Participant 4)

The use of force undermines police legitimacy

To carry out these functions, the police have certain powers, namely the power to arrest and detain and the power to use force. Good policing requires public cooperation. Members of the public may be witnesses and victims of crime, and they can provide the police with relevant information. Yet, only if people trust the police and regard them as legitimate, are they willing to assist them and comply with their instructions, which enables the police to succeed in carrying out their core functions of maintaining public order.

The participants were requested to give their views regarding the use of force during public gatherings and major events and whether this undermines the legitimacy of the police in the country.

The participants were asked: Do you think the police’s use of force during public gatherings and major events undermines the legitimacy of the police in the country?

“Yes, the laws and the clause are created and enshrined to be practised but practically they contradict the type of work police members have to do out there in the street.” (Participant 14)

“While some of the members of the community carry firearms and the police members still have to apply, enforce the laws, and act accordingly taking the human rights of the individuals into consideration without injuring or killing someone, which most of the time is not [the] case as members of the public is the victim[s] of the circumstances.” (Participant 9)

Measures put in place to reduce the use of excessive force during gatherings and major events are inadequate

Control of excessive force by police officers is a major challenge in terms of training and monitoring of police behaviour. The research found that there are challenges that prevent the police from managing protests effectively and efficiently, which results in the use of force that is disproportionate to the amount of threat and resistance they encounter in order to achieve their objective of restoring order, which results in unacceptable injuries and loss of life. The participants were required to express their views in terms of what measures should be taken by SAPS members and the police authority in South Africa to minimise excessive use of force when discharging their duties. When asked what measures should be taken by SAPS members and the police authority in South Africa to minimise excessive use of force when discharging their duties? Please give a detailed explanation.

“The South African Police Service must ensure that the situation is handled properly. Skills audits and the extraction of the training needs must be conducted properly. Proper recruitment policy must be in place and implemented properly. A need assessment and skills audit must be conducted for all units.” (Participant 19)

This exercise mentioned above will assist to ensure that training is provided to members on a continuous basis to keep them up to date. Training should include formal training and be followed by refresher training.

“Ensure that the equipment is procured, such as the protective gear for members to protect them from stone throwing and other attacks. Continuous benchmarking with international countries as well as on the continent is done continuously to learn more about technology equipment. Such equipment includes video cameras, body cameras, [and] radios that can function on cross-provincial borders. Procure helmets that can take earpieces for the purposes of communication under chaotic and noisy situations.” (Participant 8)

Discussion

From the data delineated to police officers in Gauteng (Pretoria), KwaZulu-Natal, and the Eastern Cape Provinces of South Africa, this study explores the perspectives of SAPS members on the use of excessive force during public gatherings and major events. The findings summarily indicate that the use of force by the police is still prevalent in South Africa, and such ruthlessness portend serious threat to law and order in the country. Specifically, the findings indicate that the shortage of police officials in the POP environment has become a huge challenge to dealing with sporadic or unplanned public gatherings that range from service delivery protests to political activities by dissatisfied members of the community. The tendency of authorities to deploy an insufficient number of members or a disproportionate number of members to deal with threat usually contributes to the use of excessive force by members of the police.

While the findings of this study have significant implications for effective ways of policing major events and public gatherings, it is not immune to limitations. Since the study was cross-sectional, the findings should be treated with caution. It was difficult to cover all the provinces of South Africa during data collection owing to a few constraints. Data collection was affected owing to the effect of the Covid-19 pandemic which placed restrictions on the movement of the primary researcher and limits accessibility to some offices. Therefore, we propose that a longitudinal survey of all POP and TRT units in all provinces of South Africa be considered in future. We also trust that some aspect of the study not covered could be considered in future research. However, all these limitations have little impact on the overall success and credibility of our research findings.

Broadly, the views articulated in this study is about the POP and TRT unit officers' approaches to handling communities during the crowd management of major events. Crowd management during major events demands skills and specialities in dealing with crowd management activities. Our findings show that police officers' ruthlessness in their operational approaches when controlling protests or other crowd gatherings have often resulted in police brutality. This is consistent with the views of Tait and Marks (2011:17). In view of SAPS officers' use of excessive force, it was evident that on several occasions the police used force to disperse crowds during protests. At times, the use of force by the police towards protesters is unnecessary and, in most cases, when the police deal with public protests in South Africa, the crowd is usually dispersed by using teargas and water cannons and at times firing rubber

bullets at the protesters if the protesters fail to obey instructions from the police (Civilian Secretariat for Police, 2016a:5). This is demonstrated by the incident at Marikana where 34 people were shot and killed by the SAPS, and the incident where Andries Tatane was shot and killed during a community protest in Ficksburg. These two cases serve as sufficient proof that the police in South Africa are not hesitant to use force (Civilian Secretariat for Police, 2016a:13). Tait and Marks (2011:17) indicate that the death of Andries Tatane at the hand of the police in Maqheleng outside Ficksburg in April 2011 created a poor image of the POP Units and the SAPS as an organisation. Trust in the police institution will also be affected, as such have impacts on public trust in the police (see Tankebe, 2011:130; Tait & Marks, 2011:17). Tait and Marks (2011:17) argue that the extreme use of force by the police led to the condemnation of the police by the press, human rights groups, and politicians. Tatane's death is a symbol of injustice, poor policing, and lack of responsiveness by the government.

Tait and Marks (2011) further argue that soon after 1994, the SAPS began to address the need to ensure democratic POP. Michael (2013:1) argues that the April 2011 killing of Andries Tatane brought attention to the increased lethality of police crowd control tactics. Michael (2013:2) further argues that the SAPS was reverting back to its apartheid role as the brutal enforcer of state power, which appeared to have reached a new nadir in the killing of 34 miners at Lonmin Mine in Marikana in August 2012. Tait and Marks (2011:1) agree that most marches or protest actions in South Africa result in injuries or death. Protest movements are often characterised by violence, which leads to death or injuries (Michael, 2013:1).

Additionally, our findings also show evidence of poor communication skills training by SAPS members. Communication skills training needs to be effectively provided for successful operations. Specifically on public gatherings, including the possible ways of non-verbal or other forms of communication that can be perceived by the organisers or participants as intimidating; for example, the presence or the use of equipment and body language by officials. Effective training should incorporate tactics to minimise conflict, including the development of negotiation and mediation skills. It should also entail tactics to promote de-escalation of tension and violence and methods to minimise the risk of harm during public gatherings or assemblies to participants, observers, and bystanders. Above all, there is the need to incorporate training on the lawful use of force and firearms in accordance with the guidelines for policing assemblies or public gatherings, including national and international human rights standards. All these trainings must be provided on the principles of accountability, including the internal and external mechanisms to which officials are answerable and the obligation of a law enforcement official to report conduct by colleagues that is excessive, arbitrary, or otherwise in violation of the law (*see Sun et al., 2016*).

Conclusion and Recommendation

The police are the most central public service in a modern state and are given the mandate to protect the fundamental freedom of the citizens. The police are supposed to be necessary virtuous components of a good society; however, the police themselves must be civilised. Across South Africa, one finds a huge schism between what people expect from the police under a democratic government in terms of police respect for the rule of law and that human rights as violations remain widespread features of policing.

South Africa is recognised as one of the youngest democratic countries in the world and has taken the lead in the Southern African Development Community as far as safety and security are concerned. Given such position, it is disappointing to discover that the use of force during public gatherings by the principal law enforcement agency still thrives in the country. The findings of this study summarily portend that if police excesses are not checked, the very essence of the police in the country may likely be challenged by the public one day. Unexpectedly, such situation may likely lead to a complete breakdown of law and order, with dire consequences.

Therefore, to curb police brutality and excessive use of force in the country, SAPS authorities need to return to the drawing board and revisit their operational rules of engagement in terms of crowd management and policing of public protests in the country. Importantly, it is evident from our study that crowd management operations must be managed and commanded by officers who are knowledgeable, experienced, and trained in such operation. This will assist in enabling mediation and handling of conflict management of situations. The SAPS should emphasise that it will take firm measures, within the framework of the law against people who use violence but that the police will support peaceful protesters in exercising their rights. A dedicated, well-designed crowd management training facility must be developed for crowd management training of POP members. Such a training facility should have in place minimum requirements, such as road patterns, house facades, natural features, adequate accommodation, and recreational facilities. Such a facility should be adequately designed and equipped to reflect the operational realities on the ground to enable POP members to test different "real scenarios" in "real simulated environments" to develop capabilities and

resilience to deal with different scenarios. In particular to adequately prepare officers, they must be provided with the necessary skills and capabilities to deal with all types of crowds, including armed crowds.

The training facility should employ experienced and full-time trainers, curriculum developers, assessors, and moderators. This is aimed at ensuring that training can take place regularly throughout the year. This will ensure that police officers and POP Units are regularly assessed and evaluated. This will also ensure that the training curriculum, training methods, and training methodologies are regularly updated to reflect the operational dynamics of public order situations. The SAPS must put in place a training cycle to ensure that members maintain their standards and competencies. Periodic assessments should be built into and form part of the training cycle curriculum.

In sum, to reduce and avoid the implications of police brutality, the SAPS must ensure that any less-lethal weapons in use by the SAPS have been subjected to rigorous pre-deployment testing in appropriate settings. Likewise, before the selection and procurement of equipment, including for less-lethal weapons, by law enforcement agencies for use in assemblies, States should subject such equipment to a transparent and independent assessment to determine compliance with international human rights law and standards. In particular, equipment should be assessed for accuracy, reliability and its ability to minimize physical and psychological harm.

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