

## **Standards and Procedure for Crowd Control**

Commonwealth Human Rights Initiative, July 2005

*An unarmed, peaceful protest procession in the land of 'salt satyagraha', fast-unto-death and 'do or die' is no jural anathema. – Justice K.V Krishna Iyer*

A distinguishing feature of any democracy is the space offered for legitimate dissent. One cherished and valuable aspect of political life in India is a tradition to express grievances through direct action or peaceful protest. Organised, non-violent protest marches were a key weapon in the struggle for independence, and the right to peaceful protest is enshrined as a fundamental right in the Constitution.

### **The Right to Assemble - Article 19(1) (b), Constitution of India**

All citizens have the right to assemble peacefully and without arms. This right is subject to reasonable restrictions in the interest of the sovereignty and integrity of India and public order.

All towns in the country, however large or small have a particular area and routes dedicated for the purpose of holding public meetings. The police and the district administration have a duty to facilitate these meetings, in which citizens exercise their fundamental right of public assembly. At the same time, living in democracy requires the observance of certain rules, to allow the State to discharge its responsibility of maintaining peace and security for everyone at all times. These are giving prior information about the nature and time of protest and the route to be used by the procession. If these steps are taken, the police and the administration cannot do anything that will interfere in holding peaceful protests.

There is always the possibility that a public rally will become unruly, which can mean damage to life and property. This is when a public assembly becomes “unlawful”, which is defined in Section 141 of the Indian Penal Code. Under these circumstances, the district administration and the police are permitted to disperse the crowd to prevent injuries or damage. This may entail the use of force in a controlled and specified manner.

### **Unlawful Assembly - Section 141 Indian Penal Code**

An assembly of five or more persons whose common object is to:

- overawe the government, legislature or any public servant exercising lawful powers by criminal force, or through show of criminal force
- resist the execution of any law or legal process
- commit mischief, criminal trespass or any other offence
- take possession of property or deprive anyone of the right of way, use of water or legal right s/he enjoys, by using criminal force or by a show of criminal force
- compel anyone to do what s/he is not legally bound to do by using criminal force, or through show of criminal force
- compel anyone not to do what s/he is legally bound to do using criminal force, or through show of criminal force

The principle governing the use of force as explained in the law and in police procedures remains constant: **“force should only be used when it is absolutely necessary, it should be minimum and proportional to the situation and its use should be discontinued as soon as the danger to life and property subsides”**.

### **The Police Code of Conduct**

As far as practicable, the **methods of persuasion, advice and warning** should be used. If however, the use of force becomes unavoidable then only the **irreducible minimum force** required in the circumstances should be used.<sup>1</sup>

### **The Law**

Only an **executive magistrate or an officer- in charge of a police station**<sup>2</sup> can order the use of force. Use of force can only be resorted to if an **unlawful assembly or an assembly of five or more people (likely to disturb public peace) does not disperse** on being ordered to or shows a **determination not to disperse**.<sup>3</sup> If the assembly cannot be dispersed otherwise and it is necessary in public interest, then the executive magistrate can order armed forces to disperse the assembly. Even then, every officer must **use as little force, and do as little injury to person and property**.<sup>4</sup>

Law enforcement agencies enjoy the same right of private defence as ordinary people under the Indian Penal Code to protect life and property, which in any case **cannot cause more harm than is necessary for defence**.<sup>5</sup>

### **International Standards**

As a responsible member of the international community, India is bound by United Nations standards, which are the basis of many of our laws and regulations. To reiterate, the UN Basic Principles state that the use of **force in dispersing non-violent unlawful assemblies should be avoided** and if that is not possible, then **minimum force** should be used.<sup>6</sup> In the case of violent unlawful assemblies, **firearms should only be used if less dangerous means are not available and only to the minimum extent** necessary.<sup>7</sup>

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<sup>1</sup> Principle 4, Code of Conduct for the Police in India

<sup>2</sup> In her/his absence a police officer not below the rank of sub-inspector

<sup>3</sup> Section 129 Code of Criminal Procedure, 1973 (CrPC)

<sup>4</sup> Section 130 Code of Criminal Procedure, 1973 (CrPC)

<sup>5</sup> Section 99 Indian Penal Code, 1860 (IPC)

<sup>6</sup> Section 13 U.N Basic Principles for the Use of Force and Firearms

<sup>7</sup> Section 14 U.N Basic Principles for the Use of Force and Firearms

## PROCEDURE FOR CROWD CONTROL

### **Model Rules on the Use of Force by the Police against Unlawful Crowds (Adopted by the Inspectors General of Police Conference, 1964)**

Minimum necessary force should be used to achieve the desired object. Force should be regulated according to the circumstances of each case. The object of such use of force is to disperse the assembly and no punitive or repressive considerations should be operative while such force is being used.

The procedure regulating the use of force is outlined in the police manuals of different states. The Kerala Police Manual, 1970 for instance lays down a step-by-step procedure to deal with unlawful assemblies:

- The **police must invariably secure the presence of a magistrate** where it anticipates a breach of peace
- The decision to use force and the type of force to be used is to be taken by the magistrate
- Once the order for the use of force is given by the magistrate, the extent of force to be used will be determined by the senior-most police officer
- The extent of force used must be subject to the **principle of minimum use of force**
- **Use of force should be progressive** – i.e firearms must be used as a last resort if tear smoke and lathi charge fail to disperse the crowd
- Common tearsmoke which causes no bodily injury and allows recovery of affected persons should be used
- When the crowd is large and the use of tearsmoke is likely to serve no useful purpose, the police may resort to *lathi charge*
- *Lathi charge* can only begin if the crowd refuses to disperse after suitable warning
- **Clear warning of the intention to carry out a *lathi charge*** should be given through a bugle or whistle call in a language understood by the crowd. If available, a riot flag must be raised. If the police officer in-charge is satisfied it is not practical to give a warning, s/he may order a *lathi charge* without warning.
- ***Lathi blows* should be aimed at soft portions of the body and contact with the head or collarbone should be avoided as far as practicable**
- The *lathi blows* must not cease until the crowd is completely dispersed
- If the crowd fails to disperse through the *lathi charge*, the magistrate or the competent officer<sup>8</sup> may order firing
- The **fullest warning in a clear and distinct manner must be given to the crowd to inform them that the firing will be effective**
- If after the warning, the crowd refuses to disperse the order to fire may be given
- The police are not on any account allowed to fire except on a command given by their officer

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<sup>8</sup> Officer in charge of the police station, or in her/his absence, a police officer of the rank of sub-inspector or above

- A warning shot in the air or firing over the heads of the crowd is not permitted<sup>9</sup>
- An armed force should maintain a safe distance from a dangerous crowd to prevent being overwhelmed, or increasing the chances of inflicting heavy casualties
- **Aim should be kept low and directed at the most threatening part of the crowd**
- **Firing should cease the moment the crowd show signs of dispersing**
- **All help should be rendered to convey the wounded to the hospital**
- Police officers must not leave the scene of disturbance before satisfying themselves beyond reasonable doubt about the restoration of tranquility
- **An accurate diary of all incidents, orders and action** along with the time of occurrence should be maintained by the police. This will include an individual report by all officers involved in the firing.
- The number of fired cartridges and the balance of unfired cartridges should be verified to ensure ammunition is accounted for

*The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the practical realisation of human rights in Commonwealth countries. CHRI is headquartered in New Delhi and has offices in London (U.K) and Accra (Ghana).*

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<sup>9</sup> Police manuals of some states allow the firing of warning shots in the air to caution the crowd