



# Human Rights

PLT's Perspective!



How can Human Rights help the  
Protestor Liaison Team's?

## What is the relation to PLT work?

- Knowledge is power
- Human Rights are an enabler not a restricter
- PLT's protect the rights of protestors

## 1. Refresher on legal framework for public order policing

## Human Rights Act 1998

- Created domestic rights in the same terms as the majority of rights set out in the ECHR
- Set of positive rights which individuals are lawfully entitled to exercise
- S.6: It is unlawful for a public authority to act in a way incompatible with a Convention right
- S.3: So far as it is possible, legislation must be given effect in a way which is compatible with Convention rights

## Quick Refresher on Human Rights

- What is an absolute right? Give an example.
- What is a limited right? Give an example.
- What is a qualified right? Give an example.
- What human rights may be engaged in a public order policing operation?
- What criteria must you satisfy before you can restrict the right to peaceful assembly?

## Public Order Policing and Human Rights



Use of force + right to life  
Positive duty to protect  
Detention: liberty + security of the person  
Freedoms of belief, expression, peaceful assembly and association  
Rights to respect for family and private life + peaceful enjoyment of property  
Prohibition against discrimination  
Human rights of police officers

## The Right to Protest the Basics!



- Everyone has the rights to freedom of expression and peaceful assembly and to manifest his/her religion or beliefs
- BUT these are qualified rights: structured to be balanced and to take into account the broader interests of the community / society in general
- Police can impose restrictions on these rights provided certain criteria are met

## Framework for Qualified Rights

**Police can impose restrictions on the freedoms of peaceful assembly and expression PROVIDED such restrictions are:**

1. Lawful e.g. imposed in accordance with POA ss.12 or 14
2. Pursue one or more legitimate aims: e.g. national security; public safety; prevention of disorder or crime; protection of the rights and freedoms of others
3. Necessary in a democratic society = there is a pressing social need
4. Proportionate: the measures are the least restrictive to achieve the legitimate purpose
5. Not applied in a discriminatory fashion

## Quick Refresher on POA 1986

- What section of the POA 1986 allows you to impose conditions on:
  - (i) a public procession? Give an example.
  - (ii) a public assembly? Give an example.
- When can a public assembly be banned?
- What is the process of obtaining a banning order?

## Public Order Act 1986



- Sections 1 – 5 = public Order offences
- S.12 Imposing conditions on public processions
- S.13 Prohibiting public processions
- S.14 Imposing conditions on public assemblies
- S.14A Prohibiting trespassory assemblies
- S.18 and 29A Incitement to racial and religious hatred

## Quick Refresher on the Right to Protest



- What obligations are imposed on public authorities under ECHR Article 11?
- If protesters behave in a manner that annoys or offends other people, is this a ground for restricting or prohibiting the protest?
- Does the possibility of a group of extremists with violent intentions infiltrating the protest remove the right to peaceful assembly?
- Does the right to freedom of expression have limits?

## Scope of Right to Peaceful Protest



### **Freedom of assembly:**

- Right to protest in a **peaceful** way. Purpose irrelevant
- Includes public processions, marches, rallies, demonstrations, static assemblies

### **Freedom of expression:**

- Applies to opinions, information + ideas
- Includes ideas or opinions that offend, irritate, shock or disturb

**Complexity of balancing rights:** protesters, counter-protesters, residents, workers, spectators, police officers

## Freedom of Peaceful Assembly



Public authorities have **TWO** duties under ECHR Article 11:

1. **NEGATIVE** duty: not to prevent, hinder or apply unreasonable indirect restrictions on peaceful protests
2. **POSITIVE** duty: to take reasonable measures to protect peaceful protests in certain circumstances

## The Meaning of Peaceful



- Key question = are the intentions of those organising the procession or assembly peaceful?
- Peaceful includes conduct that annoys or offends persons opposed to the idea or claims a protest is promoting
- IF YES: presumption in favour of facilitating peaceful protest = starting point for policing protest

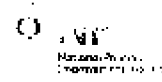
## Freedom of Expression



- One of the essential foundations of a democratic society
  - Includes the irritating, the contentious, the eccentric, the heretical, the unwelcome and the provocative provided it does not tend to provoke violence
  - Limits to freedom of expression: speech or conduct which
    - causes harassment, alarm or distress: POA s.4A + 5
    - causes fear of violence or provokes violence: POA s.4
    - incites racial or religious hatred: POA ss.18 + 29B
- is **NOT** protected by ECHR Article 10

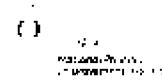


## Use of Force – 3 Core Questions



1. Does the use of force have a lawful objective (e.g. the prevention of crime; the prevention of injury to others or damage to property)?
2. Are there any means other than the use of force capable of achieving the lawful objective?
3. Having regard to the nature of the threat, what is the minimum level of force required to achieve the lawful objective?

## Legal Principles on Use of Force



### The 10 Principles on the Use of Force

## Case Study – Occupy London



- A protest camp was set up in St Paul's Churchyard on 15 and 16 October 2011.
- The camp consists of a large number of tents – between 150 and 200 by December 2011 – many of them used by protestors, either regularly or from time to time, as overnight accommodation.
- Several larger tents are used for other activities such as a library, a first aid facility, a place for women and children, a place where food and drink are served.



- **How should we deal with the new phenomenon of peaceful 'semi-permanent' occupation of public spaces to highlight issues of political concern where the occupation itself = the nature of the protest?**
- Is the Camp a legitimate protest?
- What are the key issues in this case?

## Action to Remove the Camp

- City of London Corporation (City) claims possession of highway land + other open land in the churchyard of St Paul's Cathedral occupied by the Occupy protest camp
- City also seeks injunctions to require removal of tents + other structures
- **What are the arguments for and against removal of the camp?**

## Impact of the Camp

- Tents and other structures = a substantial obstruction of the highway compromising other lawful use of the highway = wilful obstruction of the highway
- People on many routes have had to divert around the camp
- Gardens to the rear of the Cathedral have been closed with further disruption to pedestrians
- Both public and private nuisances have been caused, including noise, foul odour, urination and graffiti
- Hygiene / public health issues : facilities necessary for the camp not available at this site; drainage system overloaded
- ~~Impact of Article 9 rights of worshippers~~
- Impact on local retail and catering businesses

## Court Decision



Relief granted to City of London:

- Extent + duration of the obstruction of the highway
  - Public + private nuisance caused by that obstruction
  - Interests of public health + public safety
  - Freedoms and rights of others: impact on Art. 9 rights of worshippers in the Cathedral + property rights of land owners
- = justified an order for possession plus injunctive relief