

When Human Rights Congregate With Public Order Policing: A South African Perspective

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Abstract

The maturity and practice of democracy has led to the development of civil and political rights throughout the world, however, the jurisprudence remains grey on how to reconcile political rights, in particular the right to protest and the obligations of the state to keep the public order. This paper will discuss the obligations of the South African state in relation to civil and political rights of the people as reflected against the obligations of the state to maintain law and order. The paper will interrogate not only the rights of the citizenry in terms of freedom of association and expression but also discuss the dilemma that state agencies find themselves in when their obligations to maintain law and order are prima facie viewed as a human rights violations by the citizenry.

Key words: Protests, human rights, force, freedom, expression, order, policing.

1. Introduction

Hendrickx and Ryckeghem define public order as 'the conditions of peace, safety and health which must exist in society and which governments (and other governing bodies) should strive to achieve in order to uphold the constitutional rights of the people and to facilitate that society's harmonious development.'¹ Public order policing is therefore the processes and means by which authorised bodies attempt to regulate or censor a specified field or activity, in this instance, demonstrations or gatherings in such a manner that the interest of demonstrators and that of the general public are balanced. In a nutshell, the mere existence of a demonstration should not erode public order and violate the rights of innocent bystanders or third parties.

Over the past half-century, human rights norms in the area of public security, as in many other contexts, have become more detailed and specific. The fundamental rights at stake when state agents seek to enforce the law are primarily those guaranteeing freedom of expression, the right to assemble and to demonstrate. These rights are recognised in the Universal Declaration of Human Rights (UDHR) and enshrined, in broad terms, in the International Covenant on Civil and Political Rights (ICCPR). The importance of these freedoms has repeatedly been emphasized in various Treaties. They are a necessary condition for the realisation of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights.

Bearing the above in mind, the reality is that public protests have become increasingly violent, marked by the destruction of public and private property, and confrontations between armed police and stone-throwing crowds. As is this was not bad enough, reports are currently surfacing of crowds that fire back live munitions at law enforcement agencies² as such there is need to remind ourselves of the jurisprudence surrounding public order policing and the right to free assembly and expression. The recent riots in the United Kingdom are a poignant reminder of the ugly side of man protests.

¹ Hendrickx, E. and van Ryckeghem, D, Conflict in society: policing in partnership? community policing and public order policing, an integrated approach, *Paper presented at the Centre for the Study of Violence and Reconciliation*, Seminar No. 4, 24 June,.

² Sowetan, Protesters and cops fire live rounds as violence rises, *The Sowetan*, 16 February 2011, <http://www.sowetanlive.co.za/news/2011/02/16/protesters-and-cops-fire-live-rounds-as-violence-rises>. (accessed 2011-09-12). The Sowetan reported that...*An escalation of violence including the burning of tyres, throwing of stones and firing of live ammunition by demonstrators as well as (the) assault of media crew in the area has demanded high intervention....*

1.1 The Rights of the People

In an open and democratic society, freedom of speech and the right to expose all public institutions to criticism of the most robust and inconvenient kind are vital.³ This may be channelled through petitions, picketing or demonstrations. The tradition is that many States have taken a Constitutional or legislative measures to guarantee the right to freedom of expression and assembly.⁴ The right to demonstrate is as fundamental a right of democratic citizenship as the right to take part in political campaigns. Where the purpose of demonstration is protest, the demonstration is at the core of free expression in a democracy. One of the central responsibilities of the police is to facilitate the right to demonstrate⁵ Various international instruments have attempted to provide for this right and also provide for when the use of force is permissible, they include;

1.1.1 The Universal Declaration on Human Rights, 1948.

The Universal Declaration of Human Rights (UDHR) was adopted unanimously in December 1948 by the General Assembly of the United Nations. The objective of the 30-article Declaration is to promote and encourage respect for human rights and fundamental freedoms. The Declaration proclaims the personal, civil, political, economic, social, and cultural rights of humans, which are limited only by recognition for the rights and freedoms of others and the requirements of morality, public order, and general welfare. It should be noted that these rights are afforded to all human beings,⁶ on the basis of universality.

The Declaration provides that everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.⁷ It further provides for the right to freedom of peaceful assembly and association.⁸ It is worth noting that the UDHR provides a mere general framework of human rights. It is an inspirational document.

1.1.2 The International Covenant on Civil and Political Rights, 1966.

The Covenant under Article 19 provides that everyone has the right to hold opinions without interference.⁹ It goes further to provide that we have the right to freedom of expression; this right includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.¹⁰

Article 19 (3) places an obligation on the persons enjoying these rights to be wary of the rights and reputations of others¹¹ as well as national security or the public order.¹² These rights have been further expounded under General comment No 34,¹³ to entail the following;

- They constitute the foundation stone for every free and democratic society. The two freedoms are closely related, with freedom of expression providing the vehicle for the exchange and development of opinions.¹⁴

³ S v Mamabolo 2001 (3) SA 409 (CC) at para 71.

⁴ General Comment No. 10: Freedom of expression (Art. 19):06/29/1983. CCPR General Comment No. 10. (General Comments)

⁵ See Democratic Dialogue, Freedom of assembly and the right to protest: south africa, <http://cain.ulst.ac.uk/dd/report8/report8k.htm> (accessed 7 May 2012).

⁶ United Nations, Universal Declaration of Human Rights (UDHR), 1948. Article 2 provides that “everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion”.

⁷ United Nations, UDHR, Article 19.

⁸ United Nations, UDHR, Article 20.

⁹ United Nations, International Covenant on Civil and Political Rights (ICCPR), 1966. Article 19 (1).

¹⁰ United Nations, ICCPR, Article 19 (2).

¹¹ United Nations, ICCPR, Article 19 (3)(a).

¹² United Nations, ICCPR, Article 19 (3)(b).

¹³ CCPR/C/GC/34, Human Rights Committee. Session 102, 11-29 July 2011.

¹⁴ atpara 2.

- Freedom of expression is a necessary condition for the realisation of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights.¹⁵
- It includes political discourse, commentary on one's own and on public affairs, canvassing, and discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse.¹⁶
- States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression.¹⁷

1.1.3 The African Charter on Human and People Rights

The Charter, adopted in 1981 by the Assembly of Heads of State and Government of the Organization of African Unity provides as follows;

- Every individual shall have the right to free association provided that he abides by the law.¹⁸
- Every individual shall have the right to assemble freely with others.¹⁹
- The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest.²⁰

An example in which international law has been used by the African Commission to clarify when the rights of the people have been trampled upon is in the case of *Gunme and Others v Cameroon*.²¹ The facts depicted cases of suppression of demonstrations, including the use of force against demonstrators, the arrest and detention of people taking part in such demonstrations. The Complainant stated that several victims were arrested and held in detention for long periods, for exercising their right to freedom of assembly. Some of the detained persons were acquitted. There were others who died at the hands of security forces or in detention, after being accused of participation in 'unlawful political rallies'. The Commission concluded that article 11 of the African Charter was violated.

1.1.4 The Constitution of the Republic of South Africa²²

This Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.²³ Section 16 (b) provides for the freedom to receive or impart information or ideas. The right to assemble is codified under Section 17. It provides that everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.²⁴

However, the practice of these rights should not be seen to override other rights. In *S v Mamabolo*,²⁵ the Court observed that;

...the Constitution, in its opening statement and repeatedly thereafter, proclaims three conjoined, reciprocal and covalent values to be foundational to the Republic: human dignity, equality and freedom. With us the right to freedom of expression cannot be said automatically to trump the right to human dignity. The right to dignity is at least as worthy of protection as is the right to freedom of expression...²⁶

¹⁵ atpara 3.

¹⁶ atpara 11.

¹⁷ atpara 23.

¹⁸ African Charter on Human and Peoples Rights (ACHPR), Article 10 (1).

¹⁹ ACHPR, Article 11.

²⁰ Article 27 (2).

²¹ (2009) AHRLR 9 (ACHPR 2009).

²² Act 108 of 1996.

²³ Section 7(1).

²⁴ Section 17 (1).

²⁵ 2001 (3) SA 409 (CC).

²⁶ atpara 41.

The importance of these rights was further affirmed in *South African National Defence Union v Minister of Defence and Others*²⁷ in which the court declared that laws prohibiting members of the South African National Defence Force from protesting or picketing were struck down as unconstitutional. It was opined that;

It is valuable for many reasons, including its instrumental function as a guarantor of democracy, its implicit recognition and protection of the moral agency of individuals in our society and its facilitation of the search for truth by individuals and society generally.²⁸

2. Obligations of Law Enforcement Agencies

Having outlined the rights of the people it is important that we discuss the obligations of law enforcement officers. In general, police officers are the body of officers representing the civil authority of government. Police officers typically are responsible for maintaining public order and safety, enforcing the law, and preventing, detecting, and investigating criminal activities. These functions are known as policing. There comes instances where non confrontational means of maintaining the public order are futile and as such a measure of force needs to be used. The following are codified standards that should be borne in mind at such moments.

2.1 The United Nations Code of Conduct for Law Enforcement Officials²⁹

The Code provides that Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.³⁰ Article 3 allows for the use force only when strictly necessary and to the extent required for the performance of their duties.

This code is further complemented by the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.³¹ The document enshrines the following principles;

- “Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons. For the same purpose, it should also be possible for law enforcement officials to be equipped with self-defensive equipment such as shields, helmets, bullet-proof vests and bullet-proof means of transportation, in order to decrease the need to use weapons of any kind.”³²
- “The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled.”³³
- Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:
 - a) “Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;”³⁴
 - b) Minimize damage and injury, and respect and preserve human life;³⁵
 - c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;³⁶

²⁷ 1999 (4) SA 469.

²⁸ atpara 6 and 8.

²⁹ Adopted by General Assembly resolution 34/169 of 17 December 1979.

³⁰ Article 1.

³¹ Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

³² Principle 2.

³³ Principle 3.

³⁴ Principle 5 (a).

³⁵ Principle 5 (b).

- d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.”³⁷

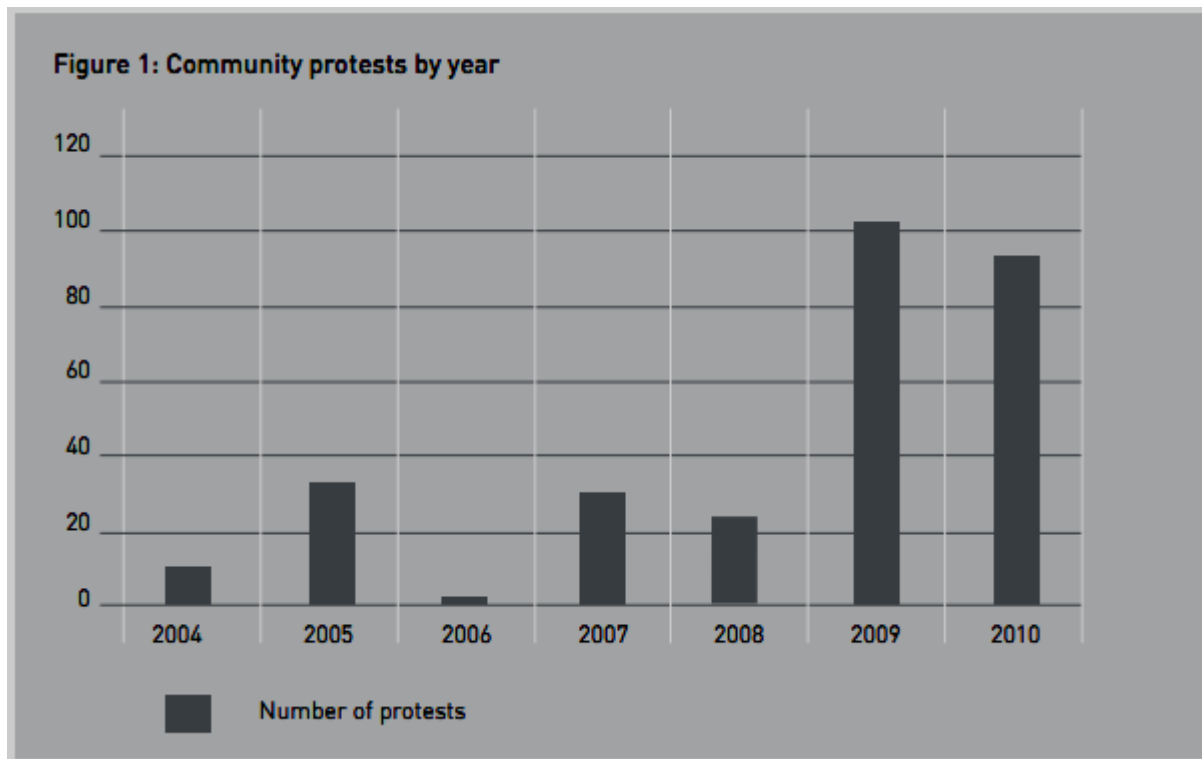
The South African equivalent of this code is Section 49 of the Criminal Procedure Act.³⁸

2.2 The Current Nature of Protests

The existence of rights creates an obligation on the persons conferred with such rights. The mere fact that the rights that have been discussed above allow persons to protest, picket or demonstrate does not mean that they should do so with disregard to other people’s rights, disturb the public order or jeopardise national security.

The current state of democratic awareness in Africa is in an upward trend. People have become more aware of their democratic rights and as such there has been an increase in protests throughout the continent. The following table indicates the increase in protests in South Africa.

Figure 1 Community Protests by Year in South Africa



Source: Centre for the Study of Violence and Reconciliation and Society, Work and Development Institute. 2011.

³⁶ Principle 5 (c).

³⁷ Principle 5 (d).

³⁸ Act 51 of 1977. It provides that; (2) *If any arrestor attempts to arrest a suspect and the suspect resists the attempt, or flees, or resists the attempt and flees, when it is clear that an attempt to arrest him or her is being made, and the suspect cannot be arrested without the use of force, the arrestor may, in order to effect the arrest, use such force as may be reasonably necessary and proportional in the circumstances to overcome the resistance or to prevent the suspect from fleeing: Provided that the arrestor is justified in terms of this section in using deadly force that is intended or is likely to cause death or grievous bodily harm to a suspect, only if he or she believes on reasonable grounds—*

- (a) *that the force is immediately necessary for the purposes of protecting the arrestor, any person lawfully assisting the arrestor or any other person from imminent or future death or grievous bodily harm;*
- (b) *that there is a substantial risk that the suspect will cause imminent or future death or grievous bodily harm if the arrest is delayed; or*
- (c) *that the offence for which the arrest is sought is in progress and is of a forcible and serious nature and involves the use of life threatening violence or a strong likelihood that it will cause grievous bodily harm.*

In tandem to the protest increase, protests have become increasingly violent, marked by the destruction of public and private property, and confrontations between armed police and stone-throwing crowds. While protest action showed a small reduction from 2007 levels in 2008, the latter year was indelibly marked by the eruption of concentrated xenophobic violence against foreign Africans, which started in Alexandra and spread across the country. Over a two-week period, foreign nationals were attacked in at least 135 locations, at least 61 people were killed, of whom 21 were South Africans, either mistaken for foreign nationals or associated with them on the basis of ethnicity, and over 100,000 people were displaced.³⁹

3. The Quandary

In an ideal situation, the starting point on policing protest is a presumption in favour of freedom of expression and freedom of assembly. The presumption is that the persons involved in the demonstration will be weary of their obligations to respect and help uphold other people's rights. This means they will not engage in behaviour that is destructive or disruptive of the public order. As a norm, the state and its agencies are required to, even if the protest is against state policy to allow the protesters to exercise the rights already discussed above through the protest or demonstration and further protect the demonstrators against any harm that may come their way.

However, the environment has changed dramatically as indicated by the following reports.

In February 2011, *eNews* reported that a man had been killed during the service delivery protests. e.tv journalist Jody Jacobs and cameraman LingeNdabambi were attacked by violent protesters.⁴⁰

It is argued that the right to life, physical integrity, and freedom of press have been violated by the protesters. The right to assembly does not give rise to the supremacy of the right of other people's rights. In such situations, it is near impossible to hold the protesters liable as evidence is very difficult to gather in crowd situations.

The Recent Thembelihle Protests; In a town, located South of Johannesburg, South Africa, 500 residents began protesting on 5 of September 2011 against poor housing infrastructure, water shortages and corruption. It was reported that;

“Residents fired live ammunition at police officers, a school and a councillor's house on Tuesday morning.” Police fired rubber bullets in return. Protesters also damaged cars, traffic lights and electricity meters and trampled on a 15-year-old girl as they fled from the police. The estimated damage of the protest was set at R1.5 million rands.⁴¹

It is submitted that Crowds are now armed with live munitions while the police, in their lack of awareness about the armament of the civilians come armed with rubber bullets, shields and pepper spray. This combination will never result in effective crowd control. Further, the lives of the police officers, the Councillor and his family are at risk. The Councillors right to own property and to occupy it free of disturbances is violated by the protesters. The damage to property is unwarranted and further makes it difficult for the state, financially to address the service delivery concerns.

In the 2011 Cape Town Municipal Workers Strike, it was reported that street vendors' stalls were destroyed and looted, transport companies were threatened, and tyres and bins were burned in the middle of the street. “As the groups of striking workers progressed down the route, some looted stalls belonging to foreigners.”⁴² It is maintained that people have the right to engage in trade.

³⁹ Centre for the Study of Violence and Reconciliation and Society (CSVR),(2011),The smoke that calls. insurgent citizenship, collective violence and the struggle for a place in the new south africa, *Work and Development Institute*, 5. Report available from <http://www.csvr.org.za/docs/thesmokethatcalls.pdf> (accessed 7 June 2012).

⁴⁰ Sowetan, Protesters and cops fire live rounds as violence rises.

⁴¹ Mail and Guardian, Cops keep close watch on thembelihle, *Mail and Guardian*, 7 September 2011, <http://mg.co.za/article/2011-09-07-cops-keep-close-watch-on-thembelihle> (accessed 12 September 2012).

⁴² Duane Petrus, Striking workers rob street vendors, *News 24*, 16 September 2011, <http://www.news24.com/SouthAfrica/News/Street-vendors-robbed-by-striking-workers-20110816> (accessed 20 September 2011).

The right to protest should not be interpreted in such a manner that protesters are allowed to destroy other people's livelihoods and disrupt businesses. In an event a street vendor wishes to institute a claim for damages, the prospects of further intimidation are high as well as the fact that the vendor does not even have enough capital to last a law suit.

The United Nations observed the following with regards to the 2008 Xenophobic Violence;

The murderous anti-foreigner campaign was reported to have been at a magnitude that overstretched the South African Police Service. Additional police officers had been redeployed to hotspots but the increasing spread of the violence to other Provinces meant that police units could not be withdrawn from other areas.⁴³

While the police struggled with capacity and intelligence challenges, the lives of foreign nationals were being taken. The right to life, security, physical integrity, dignity and privacy of the victims were disregarded by protesters. Attempts to restore public order by the SAPS proved insufficient. The military was called in to intervene but by then the damage was already done.

There has also been a protest by the ANC Youth League. It was reported as follows;

Police fought hard to control a mob of hundreds of ANC Youth League supporters who defied calls by their leaders to protest peacefully against disciplinary charges faced by their President-Julius Malema. It was reported that police officers and journalists were pelted with stones and bottles.⁴⁴

It is submitted that in this protest, there was confusion between protesting for a democratic cause and protesting in an attempt to sway a judicial hearing. It is worth mentioning that this confusion though not the crux of this study is evidence of a lack of appreciation of the rule of law in a democratic environment. Judicial processes should be allowed to unfold and the people should have trust in these processes. The source of this confusion can be traced back to the examples our very own political leaders set in attempting to unlawfully influence the judiciary

Public order entails a balancing of rights. Law enforcement officials are at most times in a dilemma between the rights of the protesters and the rights of third parties and their property. The situation is worsened by an emerging trend that demonstrations are a title fight between the people and the police therefore civilian armament is an agenda item for protesters in meetings prior to the protest.

De Lint argues that violence is most likely "when there is a one-sided distribution of power and least likely when the power resources of two groups are roughly equivalent." Moreover, violence may be used by challengers if they "feel that the existing arrangement is unjust". Unsettled politics or ambiguity is associated with public order violence. However, that most protest groups agree with police professionals that the initiation of violence including property damage is unacceptable.⁴⁵

Does the solution lie in increasing the number of laws to regulate public gatherings or does it lie in ensuring that the police force is well armed? The answer to both questions is in the negative. To ban the protests would be a suppression of voices of dissent.

It has already been argued that increased militarism including the enhancement of police weaponry contributes to more violence⁴⁶ so to increase the force with which the protests are marshalled would be amount to a systematic injection of fear amongst the people. To allow the situation as it is would be permitting disorder.

⁴³ UN Office of the Resident Coordinator South Africa, Violence against foreigners situation report no. 1, http://reliefweb.int/sites/reliefweb.int/files/reliefweb_pdf/node-267499.pdf, (accessed 16 September 2011).

⁴⁴ Cape Argus.Luthuli House stand-off, *Cape Argus*, 30 August 2011, <http://www.iol.co.za/capeargus/luthuli-house-stand-off-1.1127833> (accessed 7 September 2011).

⁴⁵ Willem de Lint, *Public order policing in canada: an analysis of operations in recent high stakes events*, Ministry of the Attorney General (2004), http://www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/policy_part/research/pdf/deLint.pdf (accessed 7 June 2012).

⁴⁶ Willem de Lint, *Ibid* note 45, pp9.

3.1 Finding Solutions

The Regulation of Gatherings Act⁴⁷ aims to regulate the holding of public gatherings and demonstrations at certain places; and to provide for matters connected therein. When credible information on oath is brought to the attention of a responsible officer that there is a threat that a proposed gathering will result in serious disruption of vehicular or pedestrian traffic, injury to participants in the gathering or other persons, or extensive damage to property, and that the Police and the traffic officers in question will not be able to contain this threat, he may consult the convener to consider the prohibition of the gathering.⁴⁸

Chapter 3 of the Act provides that;

- “No person present at or participating in a gathering or demonstration shall by way of a banner, placard, speech or singing or in any other manner incite hatred of other persons or any group of other persons on account of differences in culture, race, sex, language or religion.
- No person present at or participating in a gathering or demonstration shall perform any act or utter any words which are calculated or likely to cause or encourage violence against any person or group of persons.
- No person shall at any gathering or demonstration wear a disguise or mask or any other apparel or item which obscures his facial features and prevents his identification.”

Chapter 4 goes further to provide that the convener or every person participating in such demonstration may be jointly and severally liable for any riot damage occurs as a result of the gathering.

Despite the codification of these rules and penalties by the Regulation of Gatherings Act, the opposite continues to be reflected by protesters in real life situations and as is evidence that the Act is failing to have the desired effect in society.

A lot of police management believe that excessive force is necessary in order to get the job done, which often means turning a blind eye to how force is used. South Africa’s high rates of violent crime also mean that many people welcome a tougher stance by the police.⁴⁹ It is submitted that this would amount to fighting the consequences of the problems in society and not handling the root cause of the problems.

In analysing the general nature of protests, one realizes that all protests are a result of a loss in confidence of the democratic and consultative structures that are already in place, to hear and resolve the cries of the citizenry. The common denominators in protests are;

- revolt against authoritarian rule
- dissatisfaction with service delivery
- unemployment
- dissatisfaction with living conditions
- oppression

The Commonwealth Human Rights Initiative⁵⁰ observed that the following solutions would better solve the current quagmire;

- Good and equitable governance is required to sustain public order. Laws that empower people rather than the government should be enacted. Emphasis should be placed on creating *consensual equilibrium rather than coercive equilibrium*.
- The reasons behind occurrences of large-scale disorder should be clearly analyzed and publicly debated to prevent recurrence. The focus should be on managing state power and not on managing people.

⁴⁷ Act 205 Of 1993 Available from <http://www.info.gov.za/view/DownloadFileAction?id=71078> (accessed 7 June 2012).

⁴⁸ Section 5 (1)

⁴⁹ Centre for the Study of Violence and Reconciliation (CSVR), Lack of training-policing (2011), http://www.csvr.org.za/index.php?option=com_content&view=article&id=2492:lack-of-training--policing-252011&catid=139:media-articles&Itemid=37, (accessed 9 September 2011).

⁵⁰ Commonwealth Human Rights Initiative (CHRI).Roundtable on Policing & Public OrderNew Delhi .June 10, 2006

- Instead of giving more powers to law enforcement agencies, focus should be placed on conditioning the exercise of existing powers. The police will have to be made more accountable, and stricter punishment has to be imposed. Laws that provide impunity for law enforcement agencies should be repealed.
- Administrative Reforms efforts must help marginalized sections of society Existing provisions to safeguard the rights of vulnerable groups should be properly enforced.
- Every aspect of police functioning, administrative functioning and judicial functioning should be made public and transparent immediately, and on a regular basis. The institutional culture has to be changed.

Another solution that has been proposed by *de Lint* is that law enforcers should stretching their response outside of the envelope of the event per se (negotiating with protesters ahead of time and following up with organizers, leaders, and so forth after it).⁵¹ Understanding that public order events carry a potential legitimacy crisis for policing, police may have to go beyond their comfort zones in pre-empting and actually getting involved in the planning and execution of a protest. This will also give the citizenry an impression that the police forces are actually not antagonistic to the protest but are merely looking out for the best interests of all parties.

4. Conclusion

When lasting solutions to certain conflicts cannot be found then this is principally when public gatherings will occur. The involvement of people in democratic and governance processes is an attribute of good governance. Public gatherings may contribute to reaching a solution; therefore they ought to be given support and guidance.

The pursuit of public order should not be accelerated by tactics and systems of crowd control though this unavoidable in today's world. The focus should still remain in strengthening the resolve of democracy within the people and involving people in public affairs with the utmost honesty. Of course there are instances in which demonstrations cannot be avoided and they spiral out of control and in such instances it is submitted that the current policing initiatives are sufficient. The laws in place are adequate enough and all that needs to be done is to ensure that the civil society is aware of such laws, their obligations and their rights.

For as long as there is dissatisfaction in society, people will demonstrate, and for as long as they believe their cries will be heard, they will be no need for violence or disorder. When we reach this stage in society, consensual equilibrium would have been attained rather than coercive equilibrium.

⁵¹ Willem de Lint, *Ibid* note 45, pp 47.

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