

Use of lethal force

CONFLICT & RIGHTS



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The use of lethal force against unarmed pro-democracy protesters in Nepal during the last three weeks has resulted in at least sixteen deaths, seven disappearances, and many cases of fatal injuries. Two dozens of people have become physically disabled and eight others have been said to have lost their vision. None of these victims were armed.

While the complete picture of these fatalities is yet to emerge, the figures currently available show that security officials had frequent lapses in their duty in exercising restraint in the use of force and firearms and their responsibility to act in proportion to the seriousness of the situation.

There is no doubt that the government's unwillingness to permit free assembly, violating the Constitution, has been a precipitating cause behind these incidents. The deaths and many of the injuries occurred in the Kalanki area, where security forces frequently fired tear gas shells, rubber bullets and live ammunition to disperse large masses of pro-democracy demonstrators.

The curfew was imposed in the capital city during the last two weeks covering the city to its edge, where protesters gathered at seven or eight major rallying points, pushing into the curfew zone and defying the security forces.

International standards (ie the United Nations Code of Conduct for Law Enforcement Officials, and the UN Basic Principles for the Use of Force and Firearms by Law Enforcement Officials) recognize that law enforcement officers must sometimes be permitted to

use force or lethal force in order to do their job of keeping communities safe and protecting people from life-threatening attacks. But the force used must not be arbitrary. It must be proportionate, necessary and lawful. And it must only be used for self-defense or against the imminent threat of death or serious injury.

In the given cases, the approach in the use of lethal force reflected no attempt to balance the rights to political participation and freedom of expression and association with any legitimate notion of the need to maintain public order. This is the gravest of steps in a democracy.

An independent and transparent investigation needs to be ordered in cases where lethal force has been used by security forces, both in the interests of the security forces themselves and in the interests of public confidence and accountability.

As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, governments and law enforcement agencies and officials have to recognize that force and firearms may be used only in accordance with standard principles.

In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the mini-

imum extent necessary. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the specified conditions.

Issuing a statement early this week, the United Nations Office of High Commissioner for Human Rights noted that while the great majority of demonstrators have been non-violent, and in some situations the security forces have exercised considerable restraint, it observed many cases of excessive use of force by the security forces.

Its statement also shared the concerns of other UN agencies "at the participation of children and adolescents in demonstrations", and "about the way women demonstrators have often been manhandled with excessive force by male personnel of the security forces."

It is said that most of the forces deployed in Kathmandu had adequate training in more humane methods to manage situations of civil disturbance such as protesting crowds and riots, the arrest of violent criminals, and the release of hostages. They were also said to have been trained on less-than-lethal, and non-lethal approach.

It is now time to find out the truth and take corrective measures. While army and police officers certainly have the right to defend themselves when attacked, there needs to be an investigation into whether such a high level of lethal force was necessary. An independent and transparent investigation needs to be ordered in cases where lethal force has been used by security forces, both in the interests of the security forces themselves and in the interests of public confidence and accountability. Those who are guilty must be brought to justice to prevent such occurrences in the future.

[The writer is a lawyer]