



## פורום המרצות והמרצים למשפטים למען הדמוקרטיה

### The Israeli Law Professors' Forum For Democracy

#### **Summary of Position Paper No. 53: Police use of means of riot control to disperse protests that involve road blocking**

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#### **Summary**

In the protests defending democracy, as well as in other cases, demonstrators sometimes block main roads, and when they do, the police often disperse them. Recently police have begun resorting to drastic means of riot control, including water cannons, according to some reports also “sound

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\* The Israeli Law Professors' Forum for Democracy is an ad hoc and voluntary group of experts on Israeli law working to protect and promote liberal democracy in Israel. The forum engages in research and analysis of legislative bills, writes policy papers, and provides information and explanation for the public as well as for professional audiences. The forum actively opposes initiatives and actions aimed at abolishing the independence of the judiciary and subordinating it to the government and to partisan political considerations of the executive branch, as well as initiatives aimed at harming democratic institutions, equal and free elections, the right to equality, free speech, freedom of religion and other human rights.

The members of the Israeli Law Professors' Forum for Democracy hold different academic views regarding the details of the various reforms proposed by Israel's 37th Government to change Israel's democratic regime. Therefore the position papers and other professional materials produced by us reflect the prevailing position of the members, even if it is not held unanimously. We are, however, united in the opinion that the host of the government's proposals - which are an unprecedented and severe attack on the independence of the judiciary, the Attorney General and other government legal advisors, the police, the military, and public broadcasting - will seriously damage the rule of law and undermine Israel's democratic character. Accordingly, we joined this forum to make our professional opinion available to the public at this fateful time.

The list of Forum members is available at <https://lawprofsforum.org>, where you can also find all our position papers. Follow us on Twitter: <https://twitter.com/lawprofsforum>. Contact us: [lawprofessorsforum@gmail.com](mailto:lawprofessorsforum@gmail.com).

cannons” (LRADs: Long Range Acoustic Devices), mounted police, stun grenades, and beating demonstrators with clubs. These measures can cause significant physical harm, and indeed, several protestors have been severely injured in the past few days. Consequently, on July 13<sup>th</sup> 2023, the Attorney General notified the police that “clear instructions regarding the use of water cannons to disperse protests must be issued, to safeguard public health.”

**While the means for riot control are not new, the police’s current practices are exceptional in that they are being used in non-violent demonstrations and against protestors who are not resisting arrest.**

**In this position paper we examine the legality of this policy, namely using measures for riot control on non-violent protestors. The analysis of positive law leads to the following conclusions:**

- The police’s authority to disperse a demonstration, including an illegal demonstration, is limited. Policemen and women are allowed to use force that does not impose risk of bodily harm upon protestors. **Using dangerous means such as water or sound cannons, as well as mounted police or stun grenades is permitted only when protestors are violent or create an imminent risk of bodily harm to others or of severe harm to property, and subject to the requirement of proportionality.**
- **If the circumstances do not amount to immediate and significant danger to body or property, police officers are not authorized to use means of riot control that endanger protestors.**
- When the circumstances amount to immediate and significant danger, police are authorized to use force, **but this power is subject to the requirements of reasonableness and proportionally.** To this end, the intensity of the harm inflicted on the public if the road remains blocked must be considered. **When the delay in opening the road to traffic does not impose grave harm, police are not allowed to disperse the protest using measures of riot control that carry risks of physical injury.**
- **Therefore, when protesters are not violent, police are not allowed to use water cannons, voice cannons, and similar means of riot control.**<sup>1</sup> Police officers using these means, as well as the commanders issuing the order to use them, might commit a criminal offense and an actionable tort. **Due to its severity, an order to use means of riot control**

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<sup>1</sup> Other means that were not authorized for use, such as, according to reports the use of the voice cannon on July 11th 2023, is completely prohibited. The police itself addressed this issue stating: “our inquiry found that this was not a police device and therefore it is clarified that using it is not allowed”. Bar Peleg and Josh Breiner, “Documentation: policemen used a voice cannon for dispersing demonstrations, in contrast to regulations” Haaretz 12.7.2023.

**that endanger protestors when protestors are not violent or endangering others is a manifestly illegal order, one which police officers have a duty not to pursue.**

- **In all cases, means of riot control must be used according to the police operating instructions.**