

10 demonstrations that changed Britain the Policing Bill would have threatened

The Police, Crime, Sentencing and Courts Bill and the Right to Protest

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The UK Government's Police, Crime, Sentencing and Courts Bill, currently being discussed in the Westminster Houses of Parliament, would seriously restrict peaceful protest if passed. The Bill is so broad and vague in its potential application that it opens the way to even greater inconsistency and discrimination in the policing of protest, and even the possibility of UK Prisoners of Conscience. Although some protection for people is provided by the Human Rights Act, this too is under review.

Demonstrations are an important and established way for citizens to communicate their views on the most significant issues of the day, and protest is in part a reflection of public feelings that citizens (or specific groups of citizens) are not being properly represented by their political institutions; that they or their communities are overlooked or are not listened to. Accordingly, to be heard, many protests have taken place in ways which could be considered 'noisy' or 'annoying'.

Part 3 of the [Police, Crime, Sentencing and Courts Bill](#), relates to conditions that may be placed upon public processions and public assemblies, and amends s14 of the [Public Order Act 1986](#). It does so in a series of ways: (i) by applying new restrictive measures to the audibility of protest actions (§54s2(a)) and the location of protest actions (§57, §58), by further extending these provisions to one-person protest actions (§60), and by imposing a new maximum penalty of ten years' imprisonment for breaching these restrictions (§59); (ii) by making the determination of the noise threshold for illegality covered by the above vague and unpredictable (§54s3, s4), by leaving vague the meaning of what constitutes serious disruption, serious annoyance, and serious unease in relation to public nuisance (§59s2(c)); (iii) by giving the Home Secretary new regulatory powers to determine the meaning and scope of application of 'serious' (§54s4, §55s6), and by tasking police with operational determination of the 'serious' noise threshold (§55s3); (iv) in so doing giving targeted authorities and organisations a major role in influencing the outcome of this determination.

The likely outcomes of this Bill are that it will dissuade citizens from engaging in the democratic process, create unnecessary conflict where citizens do seek to express their democratic voice, and create the potential for peaceful protesters to receive punitive prison terms. Police interventions are likely to be seen as less legitimate, directly increasing tensions where interventions do take place. This is likely to be exacerbated by the proposed removal of the obligation on police to explain to participants in public processions that they are breaching conditions placed on their protest action (§56s3(b), s4(b), s5, s8(b), s9(b), s10, §60s9(c)). More broadly, this Bill is likely to decrease public trust in police and political institutions and remove a vital means of communication and consensus formation between citizens and public authorities. All this will have a chilling effect on the freedom of assembly.

Much of the wording of the Bill is therefore ambiguous, and as such creates space for lobbying and arbitrary decision-making. This lack of democratic transparency is one of the prime problems of the Bill.

Taking the longer view, a great many of the movements credited with helping win the rights and freedoms we enjoy today would have been affected. Whilst we remember these movements for

change it is important to remember that regressive legislation was used to suppress them, and many participants were beaten, imprisoned, or worse. It is crucial that the UK does not regress to the ‘bad old days’ of history or return to oppressive policies of the past.

Below, we set out examples of UK protests of more recent years that could have been interpreted as causing ‘annoyance’, ‘unease’ or which were ‘noisy’ in a way considered by some to be ‘serious’. We suggest that, had these demonstrations taken place under the terms of the PCSC Bill, they would have resulted in one or all of: (i) deterring participation; (ii) creating conflict between public authorities and citizens; (iii) punitively criminalising the exercise of collective democratic rights.

1. Gay Pride

Pride was originally a show of collective solidarity against homophobic violence and institutional discrimination at a time when shows of affection between same sex couples were illegal in public. The marches were seen as disruptive and provocative by the press and by MPs especially when the events involved same sex couples kissing one-another.

Although the earliest Gay Pride marches were heavily and aggressively policed, they were not prevented in advance through conditions. Had the currently proposed Bill been in place, homophobes could have complained of ‘serious unease’ as a means to demand the protests be closed down.

2. Ending apartheid in South Africa

A significant part of the decades-long movement which led to the freeing of Nelson Mandela from prison and ending apartheid in South Africa was international pressure. Part of this was a continuous presence outside the South African embassy in central London, described as ‘alive with sound’. Had this been deemed too ‘noisy, ‘annoying’ or ‘inconvenient’ for staff in the embassy, it could have been closed down.

In the event, restrictions were placed on this demonstration, leading to arrests, however charges were eventually dropped, thrown out or overturned. Had it been in place, the currently proposed Bill, would have provided powers to jail participants. If this happened today, especially if it led to lengthy sentences, we believe this would conflict with the Human Rights Act, however this too is under review.

3. Demonstrations in Parliament Square

The UN’s Special Rapporteur on Freedom of Peaceful Assembly, recommends that assemblies should as a general rule be facilitated within the “sight and sound” of their target audience. Accordingly, a great many gatherings have been organised over the years on Parliament Square and the roads near to Parliament, including for peace, racial equality, LGBT rights, human rights in other countries, fair funding for schools, hospitals and libraries, for and against Brexit, for and against fox hunting, and for the right to protest itself.

The Police, Crime, Sentencing and Courts Bill would have had an impact on all of these by creating an extended ‘controlled zone’ around Parliament in which protests are restricted. Although such zones have existed in the past they have been repealed - most recently by the Conservative Government in 2011, as they were considered to be against the spirit of freedom.

4. Phasing out coal fired power stations

Following better understanding of the climate crisis, all major UK political parties now talk about a phase out of coal fired power stations and the promotion of renewables, as a means to limit the effects of climate change. As recently as ten years ago though, there were still plans in place to build new coal fired power stations.

In response, locals and environmentalists protested by camping near to the site of the Kingsnorth Power Station in Kent. The policing of the movement was controversial but under part 4 of the Police, Crime, Sentencing and Courts Bill, this type of protest could have been closed down altogether. The protests were successful, and the power station was demolished in 2014.

5. Support for survivors of domestic abuse

The story of the Suffragettes' campaign for political equality has a special place in British cultural memory, including memorable and eye-catching acts of civil disobedience to draw attention to their cause. More than 100 years later though the struggle for women's human rights and equality is still in full swing.

In 2015 'modern day suffragettes' from Sisters Uncut took a stance about funding for support of survivors of domestic violence at the premiere of a film about the earlier women's rights struggles. Under the terms of the Police, Crime, Sentencing and Courts Bill this could have counted as 'serious disruption and serious noise' and could have led to very serious sanctions.

6. Anti-racism vigils

It is a lot more common than many people realise, for people peacefully exercising their democratic rights to be threatened with arrest for actions as benign as standing with a placard, especially where conditions are in place which lead to lack of clarity.

In 2021 four people - socially distanced and wearing Covid facemasks – were arrested merely for standing on a pavement with a placard, in support of people arrested during Black Lives Matter protests. Police later admitted that they should not have been arrested and put it down to an 'honest' misinterpretation of lockdown laws.

This highlights the risk of police misusing vague and subjective laws, including in ways that could further entrench racism through over policing of marginalised groups.

7. Peace vigils

During times of conflict people sometimes organise public vigils, often prayerful in character, to bear witness to events going on. Where companies or institutions are contributing to the conflict, for example by providing weapons to human rights abusing governments, such vigils are on occasion situated by the gates of the institutions in question. These could be subject to banning, restriction or the imprisonment of participants, if they are deemed to have 'a relevant impact'.

Any form of protest that aims to have a sustained presence is likely to be at risk of prosecution under the proposed legislation. This would mean that those people attempting a public presence for the duration of an international crisis, will very likely face threats of arrest.

8. Engaging with companies

When major companies have their Annual General Meetings, shareholders often try to encourage them to adopt cleaner, greener, and more ethical policies. In support of such changes, it is common for people affected by companies' actions but who don't possess shares to gather outside, sharing information about the proposed resolutions.

People want to be able to stand near the entrances to the AGM so they can hand out information to attendees, but police often move them to locations much further away. Increased powers for police to impose these kinds of conditions would likely lead to protesters needing to be louder to get their message across, thereby risking punishment for being too noisy.

9. Stopping fracking

In 2020 the UK Government ended its support for new fracking projects, in a complete about-turn on their previous policy. If continued, the controversial fossil fuel extraction projects would have contributed to catastrophic climate change, as well as contributing to local environmental problems.

After earlier appeals to politicians had been unsuccessful, local residents had joined forces with ‘environmental protectors’ to protest the arrival of lorries at the sites, including sometimes by walking slowly to impede their progress. This bought time for legal challenges which revealed that many of the proposed fracking projects were in fact themselves unlawful. The locals were vindicated.

The Police, Crime, Sentencing and Courts Bill however would considerably increase the risk and potential sentences for the protesters’ actions, and conditions against the length of protests could have seen them closed down altogether.

10. Fridays for Future

Inspired by Greta Thunberg in Sweden, throughout 2019 a series of lively protests led by school children called on the government to take action to prevent climate breakdown.

Often organised rapidly and with spontaneity there often wasn’t time – or in some cases the experience - for these young people to apply for police permissions to protest. Even if they had been able to, they could well have been sanctioned for making their voices heard (‘noise’), and – for those who attended events in London – for their presence on the roads around the Houses of Parliament, had the Police, Crime, Sentencing and Courts Bill been in place.

A number of one-person-protests also took place, in emulation of Thunberg. The provisions cracking down on single-person protests could well have affected them too.

Police discretion

It is important to caveat the above by saying many of these protests attracted unwelcome attention from police, but for the most part were allowed to continue through a mixture of police discretion and legal protections for peaceful assembly. This Bill significantly decreases the scope of both, leading to the likelihood of much great intimidation of those participating in demonstrations, and a chilling effect on people’s willingness and ability to exercise their freedom of expression. Along with hundreds of other organisations, it is our considered view that MPs and Peers should support the removal of sections 3 and 4 of the Policing Bill altogether, in order to protect Britain’s precious rights and freedoms.