THE DEFINITION OF THE RIGHT TO PROTEST

Politicians say they believe in the right to protest but cannot tell us what that means. So we've written the definition for them.

The Right to Protest noun
/raɪt tuː prəˈtɛst/

(say **I** have the **ryte** to **proh**-test)

1. The rights of individuals and groups to freedom of assembly and of association and to freedom of expression. In a country where the right to protest exists the state must both facilitate and protect public assemblies, in ways that don't discriminate, even in cases where there is the potential for disruption to be caused. For example: *Did you know we are losing **The Right to Protest**?*

2. What politicians say every time they take it away. For example: *The Home Secretary said "**The right to** peaceful **protest** is fundamental to this nation. But anyone taking part in criminal activity will face the full force of the law."*



NET POL The Network for Police Monitoring

The Definition of the Right To Protest

Define the right to protest. Defend dissent.

Between October 2025 and May 2026, Netpol worked with Dr Graeme Hayes, Reader in Political Sociology and Head of Department of Sociology and Policy at Aston University. His research focuses primarily on environmental social movements, civil disobedience, and the criminal trials of activists for their participation in non-violent direct action. Graeme interviewed over 30 campaigners from a range of movements, asking about their experiences of the policing of protests since 2021. These testimonies were used to update and amend the work originally undertaken by Netpol for its Charter for Freedom of Assembly Rights.

The result is a new, comprehensive definition of the right to protest – what campaigners collectively expect and demand from the police when we are forced to take action for a better world.

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A Clear Definition of the Right to Protest

Politicians say they believe in the right to protest but cannot tell us what that means. So we've written the definition for them.

Does the 'right to protest' mean legal protections for "peaceful protest", or "lawful protest", or only protests that cause zero disruption? You may not know for certain, but you might expect the politicians who make our laws, or who are supposedly responsible for holding the police to account, to know how to answer this question.

Yet both Labour and Conservative ministers, while insisting that they recognise and support the importance of protest rights, have simultaneously taking authoritarian decisions that make freedoms of assembly and expression more difficult to exercise.

Every time politicians and the police talk about 'recognising' the right to protest, they take our rights away

For years, civil liberties organisations have complained about attacks of the right to protest in Britain and the constantly expanding new anti-protest laws.

Often these are targeted at people with the least access to power and influence and who take part in civil disobedience or direct action, or who are from marginalised or racialised communities. They are also the most likely to experience disproportionate use of force, the misuse of police powers and the secretive, unaccountable mass surveillance.

Putting 'lawful' and 'peaceful' together as though they have the same meaning is a common tactic of both our politicians and the police. Yet this is not what international human rights obligations endorsed by the British government says is the standard for nations to follow.

We launched our first 'Charter for Freedom of Assembly Rights' back in 2021, following the policing of national protests for Black Lives Matter, Extinction Rebellion, and the restrictions on civil liberties that police were developing during the pandemic. This sought to pressure the government and senior police officers to come up with proper guidance on the policing of protests. We also tried appealing to Police & Crime Commissioners to seek clarity from senior officers about the direction, tone and proportionality of the policing of protests in their areas.

Unfortunately, neither of these approaches was in any way productive.

Since then, the policing of protest in Britain has become increasingly repressive. The Conservative government passed the Police, Crime, Sentencing and Courts Act 2022 and swiftly followed it up with the Public Order Act 2023 and the National Security Act 2023, as well as lowering thresholds for police intervention by redefining "significant" disruption as anything that was "more than minor". Far from reversing this trend, the current Labour government has doubled down, proscribing Palestine Action as a terrorist organisation in 2025, and passing the Crime and Policing Act 2026.

The combination of these new laws gives the police an extraordinary and often confusing arsenal of powers. As we pointed out in our State of Protest report for 2025, this expansion in powers "does not only increase capacity, but offers the police strategic choice – to approach the same activity through multiple legal routes based on whichever is the strongest deterrent – creating an intimidating and unpredictable protest environment".

The creation of uncertainty is central to encouraging ordinary people to fear taking part in protests.

Netpol's work identifies two overlapping trends. In our State of Protest 2024 report, we emphasised the "expansion of anti-protest laws enabling policing practices that treat protest as, at best, a nuisance and at worst, as inherently criminal". In our 2025 report, we emphasised that protest is increasingly "framed as an existential security threat, allowing authorities to justify repression in response to 'exceptional' concerns".

In both cases – treating protest as ordinary criminality, treating it as a security threat to the state – protesters are routinely and deliberately denied the recognition of their freedoms of assembly and expression.

International bodies concerned with monitoring protest freedoms have repeatedly expressed grave concerns over the democratic impacts of these powers and prohibitions.

For the Council of Europe's Commissioner for Human Rights, these legislative changes "continue to allow authorities to impose excessive limits on freedom of assembly and expression".[1] For the Special Procedures of the United Nations Human Rights Council, the measures in the Crime and Policing Act risk imposing "inordinate and substantial restrictions on the rights to freedom of peaceful assembly and of association and to freedom of expression".[2]

The UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association has expressed their alarm at the "erosion of protest rights" in Britain and the north of Ireland, whilst the UN Special Rapporteur on Environmental Defenders under the Aarhus Convention has repeatedly expressed they are "seriously concerned by these regressive new laws". He described the imprisonment of five non-violent Extinction Rebellion activists in 2024 as signalling that the "fundamental pillars of a democratic society are right now in grave peril in the United Kingdom".[3]

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1 Letter from Michael O'Flaherty, The Council of Europe's Commissioner for Human Rights, to Home Secretary Shabana Mahmood MP, Strasbourg, 23 September 2025, https://rm.coe.int/letter-to-the-home-secretary-of-united-kingdom-by-michael-o-flaherty-c/488028b2a8

2 Letter from Special Procedures of the Human Rights Council to UK Mission to the United Nations in Geneva, 3 July 2025, OL GBR 7/2025, https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=29987

3 United Kingdom: UN expert alarmed by systemic erosion of the right to protest, UN press release, 13 May 2026, https://www.ohchr.org/en/press-releases/2026/05/united-kingdom-un-expert-alarmed-systemic-erosion-right-protest; End of mission statement, Visit to London, 10-12 January 2024, 23 January 2024, https://unece.org/sites/default/files/2024-01/Aarhus_SR_Env_Defenders_statement_following_visit_to_UK_10-12_Jan_2024.pdf; Statement regarding the criminal prosecution of Mr. Daniel Shaw for his involvement in peaceful environmental protest in the United Kingdom of Great Britain and Northern Ireland, Ref: ACSR/C/2024/26, 24 June 2024, https://unece.org/sites/default/files/2024-06/ACSR_C_2024_26_UK_SR_EnvDefenders_public_statement_24.06.2024.pdf

The case for adopting transparent expectations about the policing of rights to freedom of assembly remains the same – but the need is greater than ever. However, Netpol has concluded there is little value in asking again for the National Police Chiefs Council, the College of Policing or the Home Office to act.

Every time politicians and the police talk about 'recognising' the right to protest, they take our rights away.

That's why we're spelling it out for them. That is why we have launched "The Definition of the Right To Protest" – a clear definition of what campaigners collectively expect and demand from the police when we are forced to take action for a better world. It is based on international guidelines on the protection of the right to freedom of assembly, from monitoring bodies and experts, that the British government has already accepted.

In order to defend the right to protest, we need to define it. This is our definition.

Next time a politician claims the right to protest means something else, challenge them to explain how their words meet Britain's international legal obligations.

"The Definition of the Right to Protest" has eleven core parts. These are:

ONE: Public protests need both facilitation and protection

TWO: Public protests need protection based on equality and non-discrimination

THREE: Potential disruption is not an automatic excuse for denying protection for protests

FOUR: The use of civil disobedience and direct action tactics are not to be equated with terrorism and are not an automatic excuse for denying protection for protests

FIVE: The use of police powers to collectively restrict the right to protest is justifiable only in exceptional circumstances

SIX: Although public protests are collective activities, protesters are individually rather than collectively responsible for their actions

SEVEN: Choosing to take part in a public protest is not an invitation to surveillance and denial of privacy

EIGHT: Organisers of public protests, not the police, must decide their level of communication and dialogue

NINE: Independent monitoring of the policing of protests is essential for defending the right to organise and participate in public assemblies

TEN: Imposing financial burdens on organisers restricts the right to protest

ELEVEN: The police have a particular duty to protect the rights of vulnerable or disabled people wishing to exercise their right to protest

Public protests need both facilitation and protection

WE SAY: The police must treat both the organising of and participation in assemblies expressing a political message as enjoying a heightened level of protection and refrain from adopting vaguely defined "public order" justifications to limit the right to protest.

The Venice Commission's revised guidelines describe the protection of the right to assembly as "crucial to creating a tolerant and pluralistic society". They remind Organisation for Security and Cooperation (OSCE) member states that they are "bound by human rights instruments and politically binding OSCE commitments which confer protection on the right to freedom of peaceful assembly" and that they have "a general legal obligation to ensure the protection of the rights contained therein". Moreover, beyond protection, prominent in the guiding principles set out by the Venice Commission (at para. 2.2) is that

> *It is the primary responsibility of the state to put in place adequate mechanisms and procedures to ensure that the freedom is practically enjoyed and not subject to undue bureaucratic regulation. In particular, the state should always seek to* **facilitate** [our emphasis] *and protect public assemblies at the organizers' preferred location and should also ensure that efforts to disseminate information to publicize forthcoming assemblies are not impeded.*

UNHRC General Comment 37 (at para. 32) states "given that peaceful assemblies often have expressive functions, and that political speech enjoys particular protection as a form of expression, it follows that assemblies with a political message should enjoy a **heightened level** [our emphasis] of accommodation and protection".

Here, Netpol emphasises the importance of both the *protection* and the *facilitation* of the right to freedom of protest. This is because of the tendency of policing bodies in Britain to see their legal duties as extending no further – and often not as far as – the obligation to "facilitate" protests.

For example, the College of Policing's current Authorised Professional Practice on public order policing describes how the police have "both positive duties (a duty to do something, in certain circumstances, such as take reasonable steps to protect those who want to exercise their rights peacefully) and negative duties (a duty to refrain from doing something, not prevent, hinder or restrict peaceful assembly) to uphold human rights."[4]

This infers that the police's operational obligations towards freedom of protest are exclusively concerned with the protection of assembly rights, and the prevention of

4 See College of Policing and National Police Chiefs' Council, *National Protest Operational Advice*, August 2023, p.9; https://www.app.college.police.uk/app-content/public-order/core-principles-and-legislation/#positive-duty

interference in those rights. Whilst these obligations are welcome in principle, nowhere does the police's operational guidance address the state's duty to *facilitate* protest.

These distinctions are important. Netpol is aware and has documented numerous examples where the police have adopted vaguely defined "public order" justifications to limit the right to protest, and where it appears that little thought has been given to recognising the need for either facilitation or a heightened level of protection.

In some instances, this has either been the result of government pressure or active lobbying by senior officers. For example, in 2019 Netpol found that the Metropolitan Police had misused a range of police powers during Extinction Rebellion protests in central London, with the use of Section 14 of the Public Order Act to limit these protests ruled as unlawful by the High Court. Netpol also found that the barrage of negative media commentary about the protests from senior officers was likely to have influenced the impression to officers on the ground that all protests were banned, providing the justification for the misuse of other powers to "prevent crime".[5] Netpol found little indication in the Metropolitan Police's decision-making regarding the requirement to protect the rights of participants in these assemblies.

In interviews, protest organisers have emphasised to us that the Metropolitan Police have repeatedly both been using powers they did not have and responding to organisers in such a way as to create uncertainty and unreliability.

For example, Metropolitan Police have used both "cumulative impact" and "vicinity of synagogues" as justifications for imposing conditions on pro-Palestine marches in London, *prior to* the passing of the Crime and Policing Act 2026 which makes it lawful for police to do so. For example, police cited "cumulative impact" to block International Jewish Anti-Zionist Network protests in May 2025 and, in a widely publicised intervention, obstructed Palestine Coalition march to the BBC in January 2025 on the basis that it risked disruption to morning services at a nearby synagogue.

The police's confusing and arbitrary approach to route permissions on that day showed, as we write in our State of Protest 2025 report, that "even planned and negotiated forms of protest offer no reliable protection from arrest".[6] One organiser told us, "the goal seems to be to create such a distressing experience that people are discouraged from attending future protests".[7]

Police are routinely imposing restrictions on the start and end times of demonstrations, such that marchers cannot assemble before a particular time and must disperse immediately at the end of the allotted time. This reduces rather than increases public safety, as it makes the stewarding of major demonstrations more difficult, places stewards at the risk of arrest, and creates uncertainty over whether police will use their discretion or will proceed to arrests.

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5 See **'Restricting the Rebellion'** https://netpol.org/2019/11/21/restricting-the-rebellion/
6 Netpol, *How Repression Became Routine: The State of Protest in 2025*, p.18
7 Interview, December 2025

This is exacerbated by the Metropolitan Police refusing to respond in a timely fashion to proposed routes, and frequently making last minute changes to proposed start and end times, march routes and assembly points, despite being given appropriate notice by organisers. This includes imposing conditions the night before national demonstrations. The timing and tenor of police responses is designed to obstruct rather than facilitate protest.

The passing of the Crime and Policing Act 2026 now formally gives police wide latitude in imposing conditions on marches for vaguely defined reasons (there is no definition in the Act, for example, of the meaning of "vicinity" in the power of the police to impose s12 and s14 conditions on protests which take place in "the vicinity of a place of worship", and the assessment of "cumulative impact" is at the discretion of the police). In response to this, Special Procedures of the UN Human Rights Council have stressed the importance of the principle of legal certainty in article 15 of the ICCPR, which states that "ill-defined and/or overly broad laws are inherently susceptible to arbitrary application and abuse, including discrimination, and cannot serve as a legal basis for necessary or proportionate restrictions on rights or freedoms".[8]

Facilitation must be combined with protection. According to UNHRC General Comment 37 (at para. 44):

> *"Public order" refers to the sum of the rules that ensure the proper functioning of society, or the set of fundamental principles on which society is founded, which also entails respect for human rights, including the right of peaceful assembly. States parties should not rely on a vague definition of "public order" to justify over broad restrictions on the right of peaceful assembly. Peaceful assemblies can in some cases be inherently or deliberately disruptive and require a significant degree of toleration. "Public order" and "law and order" are not synonyms, and the prohibition of "public disorder" in domestic law should not be used unduly to restrict peaceful assemblies.*

Even within the narrower confines of protection from non-state actors, the Venice Commission guidelines insist (in para. 81) that "potential disorder arising from hostility directed against those participating in a peaceful assembly must not be used to justify disproportionate restrictions on the assembly". It adds that "the duty to protect also involves the protection of assembly organizers and participants from third party individuals or groups who seek to undermine their right to freedom of peaceful assembly".

We have catalogued multiple occasions, however, where police forces have ignored their duty to protect in the face of threats of violence from opponents.

In 2012, Netpol reported how Leicestershire Police had tried to persuade members of local communities, voluntary and faith groups, and in particular young people, to stay away from counterdemonstrations against the English Defence League (EDL). Netpol found that the Children Act 1989, which allows police to take young people under 19 years old to a 'place of

8 Letter, Special Procedures of the Human Rights Council to UK Mission to the United Nations in Geneva, 3 July 2025, OL GBR 7/2025, https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=29987

safety', was used by police as a 'scare tactic' to dissuade young people from attending counter-demonstrations.[9]

In 2016 a report by High Wycombe Community Advocates highlighted how Wycombe District Council and Thames Valley Police set out to dissuade local people from participating in counter demonstrations against the EDL by raising fear about the prospect of public disorder, violence and arrests.[10]

In July 2020, Black Lives Matter campaigners in Newcastle-upon-Tyne complained that Northumbria Police had effectively banned anti-racist protests in the city centre because of the presence of far-right opponents.[11]

In October 2020, campaigners from Kent Refugee and Asylum Network told Netpol they have faced severe pressure from Kent Police to cancel a their planned "welcome event" for asylum seekers who the Home Office proposed to house at Napier Barracks in Folkestone, in part because the threat of a far-right counter protests.

In interviews, protest organisers have repeatedly stressed that police give far greater protection to intimidatory far-right counter-demonstrators than they do to participants in pro-Palestine marches.

Protest organisers have told Netpol of the "insidious" ways that the Metropolitan Police interprets EDI provisions to enable and accommodate counter-demonstrators, and that the police "seem to bend over backwards to facilitate the rights of counter protesters, and to accept racist and misogynistic hate speech, physical assaults and intimidation".[12]

We have heard many stories, in Manchester, Leeds, and Bristol, of police regularly accommodating far-right protests and counter-protests in a way that is inconsistent with their policing of pro-Palestine and anti-fascist marches.

9 Netpol publish critical report into EDL policing, Netpol, 13 June 2102 https://netpol.org/2012/06/13/critical-report-into-edl-policing/

10 Community Advocates challenge policing of High Wycombe EDL protest, Netpol, 10 May 2016, https://netpol.org/2016/05/10/community-advocates-challenge-policing-high-wycombe-edl-protest/

11 Newcastle police accused of heavy-handed tactics against BLM protests, Morning Star, 8 July 020, https://morningstaronline.co.uk/article/b/newcastle-police-accused-heavy-handed-tactics-against-blm-protests

12 Interviews, November and December 2025.

Public protests need protection based on equality and non-discrimination

WE SAY: The police must uphold the general principle that human rights are enjoyed equally by all individuals and without discrimination. This means protest policing must not discriminate against organisers and participants on the basis of protected characteristics (such as "race" or sexual identity) or because an protest actively supports the rights of those most at risk of discrimination.

The Venice Commission has stated (Guidelines, at para. 102), that "discrimination against organizers and/or participants in an assembly… should be prohibited" and that "the protection against discrimination also extends to cases where individuals are targeted not because of their identity, but because they actively lobby for the rights of those most at risk of discrimination, and/or because of the message being conveyed during an assembly".

The Commission adds (at para. 103) that states "may not impose more onerous pre-conditions or restrictions on some assemblies than on others, where the respective assemblies are similar in nature and the organizers/participants are in similar situations".

UNHRC General Comment 37 (at para. 25) also provides against discrimination:

> *States must ensure that laws and their interpretation and application do not result in discrimination in the enjoyment of the right of peaceful assembly, for example on the basis of race, colour, ethnicity, age, sex, language, property, religion or belief, political or other opinion, national or social origin, birth, minority, indigenous or other status, disability, sexual orientation or gender identity, or other status. Particular efforts must be made to ensure the equal and effective facilitation and protection of the right of peaceful assembly of individuals who are members of groups that are or have been subjected to discrimination, or that may face particular challenges in participating in assemblies.*

In summer 2020, Netpol found significant differences in the policing of Black Lives Matter protests and experiences of protestors between the hundreds of protests across Britain with examples of light-touch policing at safe and successful gatherings. However black-led protests disproportionately faced excessive interventions by police. Black protesters were far more likely to find themselves targeted and arrested. In at least one instance, black members of the public who were not part of a London demonstration reported that they were arrested for no reason.[13] A report by the Northern Ireland Policing Board in November 2020 also looked in depth and made a number of recommendations about "the apparent inconsistency in approach to the enforcement" of Black Lives Matter protests by the Police Service for Northern Ireland.[14]

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13 See 'Britain is not innocent': A Netpol Report on the policing of Black Lives Matter protests in Britain's towns and cities in 2020' page 22, https://netpol.org/black-lives-matter/

14 See pages 42-57, Report on the Thematic Review of the Policing Response to COVID-19, NIPB, https://www.nipolicingboard.org.uk/sites/nipb/files/publications/report-on-the-thematic-review-of-the-policing-responser-to-covid-19.PDF

Since October 2023, Palestine solidarity demonstrations have been particularly notable for attempts by police to use suspected "hate crimes" as a justification for severely restricting rights to freedom of expression and assembly, a feature we believe is both systemic and unique to the policing of the pro-Palestine movement. Both the criticism of Israel and the use of established Palestine liberation slogans have been singled out by police as examples of "antisemitism", including the use of chants such as "from the river to the sea". Often the basis given by police is that symbols, chants or placards "could cause offence", a vague form of words which does not set out in what ways the symbol or text is itself unlawful.

In our *In Our Millions* report, we noted how the targeting by police of Palestinians and Arabic speakers on these demonstrations formed part of a wider pattern of racial profiling and a continuation of established patterns of racist policing. This includes reports of protesters being taken aside and questioned for carrying placards with Arabic writing. In one incident, two women were arrested for having a placard in Arabic. They translated the phrase for police, but police were unable to provide their own translator, and charged them on suspicion of a racially aggravated public order offence. The charges were subsequently dropped. Reports from the London protest of 4 November 2023 identify instances of police arresting protesters for using the word "intifada", long established as a term claimed by Palestinian civil society to mean "uprising" or "rebellion". Our report concluded that

> *Palestinians in particular and Arabic speakers more generally face heightened surveillance and police scrutiny and intervention when engaging in protest or political speech.*[15]

Potential disruption is not an automatic excuse for denying protection for protests

WE SAY: All public assemblies involve some level of disruption. The police must treat street closures, redirecting traffic or preventing interference from other members of the public, private security or counter-demonstrators as necessary measures to facilitate and protect participation in assemblies, rather than an excuse to limit, disperse or curtail a protest.

This means restrictions imposed for the protection of "the rights of others" are treated as exceptional, requiring detailed justification. The police must not limit protests simply because of their frequency.

The Venice Commission guidelines say (at para. 62) that "given the importance of freedom of assembly in a democratic society, assemblies should be regarded as an equally legitimate use of public space as other, more routine uses of such space, such as commercial activity or

15 In Our Millions, p16

pedestrian and vehicular traffic". It adds (at para. 143) that "neither temporary disruption of vehicular or pedestrian traffic, nor opposition to an assembly, are of themselves legitimate reasons to impose restrictions on an assembly".

The UNHRC General Comment 37 (in para. 24) says states must:

> *promote an enabling environment for the exercise of the right of peaceful assembly without discrimination, and put in place a legal and institutional framework within which the right can be exercised effectively. Specific measures may sometimes be required on the part of the authorities. For example, they may need to block off streets, redirect traffic or provide security. Where needed, States must also protect participants against possible abuse by non-State actors, such as interference or violence by other members of the public, counter demonstrators and private security providers.*

The UN Special Rapporteur on Environmental Defenders under the Aarhus Convention similarly emphasises that:

> *Even where protesters intentionally cause disruption, this does not move their acts outside the scope of these rights, provided that there is no intention to incite violence or otherwise reject the foundations of a democratic society.*[16]

The European Court of Human Rights (ECtHR) has often reiterated that a demonstration in a public place may cause disruption. For example, first in *Oya Ataman v Turkey* in 2005[17] and then in *Körtvélyessy v. Hungary* in 2010, the ECtHR reiterated that:

> *a demonstration in a public place may cause a certain level of disruption to ordinary life including disruption of traffic. However, where demonstrators do not engage in acts of violence, it is important for public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 is not to be deprived of all substance.*[18]

The Joint Committee on Human Rights, in its report *Demonstrating respect for rights? A human rights approach to policing protest* in 2009, said,

> *In our view, this should be interpreted as meaning that the police should be exceptionally slow to prevent or interfere with a peaceful demonstration simply because of the violent actions of a minority.*[19]

A similar view has been taken by the Court of Appeal. In considering the need for tolerance of disruptive protest. In 2009, Lord Justice Laws, in *Tabernacle v Secretary of State for Defence*, said (at para. 43):

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16 The Right to Peaceful Environmental Protest and Civil Disobedience, Note by the Special Rapporteur on Environmental Defenders, UN Economic and Social Council, November 2025, https://unece.org/sites/default/files/2025-11/ECE.MP_.PP_.2025.44.E.pdf

17 See para 41 http://hudoc.echr.coe.int/fre?i=001-78330

18 See para 21: https://www.bailii.org/eu/cases/ECHR/2017/682.html

19 Para 23, https://publications.parliament.uk/pa/jt200809/jtselect/jtrights/47/4705.htm

Rights worth having are unruly things. Demonstrations and protests are liable to be a nuisance. They are liable to be inconvenient and tiresome, or at least perceived as such by others who are out of sympathy with them.[20]

The OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly[21] provides this advice:

The regulatory authority has a duty to strike a proper balance between the important freedom of peaceful assembly and the competing rights of those who live, work, shop, trade, and carry on business in the locality affected by an assembly… Mere disruption, or even opposition to an assembly, is not therefore, of itself, a reason to impose prior restrictions on it. Given the need for tolerance in a democratic society, a high threshold will need to be overcome before it can be established that a public assembly will unreasonably infringe the rights and freedoms of others.

However, since 2014, Netpol's work supporting the legal rights of the opponents of fracking has repeatedly found evidence of how the police sought to limit rights to freedom of protest based on their assessment of the prospects for disruption.

For example, in 2017, the senior officer in charge of policing at a fracking site in North Yorkshire Police held a public meeting with residents and announced he was prepared to tolerate 20 minutes of peaceful protests, twice a day. His view of "peaceful" was uncompromising; he equated it with no disruption whatsoever. His aim was "to make sure that the community from the surrounding area are able to go about their day-to-day business and lifestyles without being affected **in any way**" [our emphasis], and added that any obstruction by anyone could lead to the withdrawal of his "offer".[22]

20 See para 43: https://www.bailii.org/ew/cases/EWCA/Civ/2009/23.html
21 See paras, 70-71, https://www.osce.org/odihr/73405
22 'Police set limits on North Yorkshire fracking protests', Drill or Drop, 6 September 2017, https://drillordrop.com/2017/09/06/police-set-limits-on-north-yorkshire-fracking-protests/

The use of civil disobedience and direct action tactics are not to be equated with terrorism and are not an automatic excuse for denying protection for protests

WE SAY: The police must <u>not</u> treat collective civil disobedience and direct action that involves disruption, non-cooperation or minor breaches of domestic law as automatically "violent" and thus no longer deserving the protection of laws on the rights to protest. This means accepting that blanket restrictions are presumptively disproportionate.

The Venice Commission (Guidelines, para.48) makes clear that:

> *an assembly can be 'peaceful' even if it is 'unlawful' under domestic law. In this regard, it is especially important to emphasize that the concept of 'peaceful' may include conduct that temporarily hinders, impedes or obstructs the activities of third parties, for example by temporarily blocking traffic.*

It adds (in para.51):

> *the spectrum of conduct that either constitutes 'violence', or is regarded as capable of causing 'violence', should be narrowly construed, limited in principle to using, or overtly inciting others to use, physical force that inflicts or is intended to inflict injury or serious property damage where such injury or damage is likely to occur.*

General Comment 37 says: "mere pushing and shoving or disruption of vehicular or pedestrian movement or daily activities do not amount to 'violence'", and adds:

> *If the conduct of participants in an assembly is peaceful, the fact that certain domestic legal requirements pertaining to an assembly have not been met by its organizers or participants does not, on its own, place the participants outside the scope of the protection of article 21* [of the International Covenant on Civil and Political Rights].

The Venice Commission (Guidelines, at para. 92) further states:

> *Domestic legislation designed to counter terrorism or extremism should narrowly define the terms "terrorism" and "extremism" so as not to include forms of civil disobedience and protest, the pursuit of certain political, religious or ideological ends, or attempts to exert influence on other sections of society, the government or international opinion.*

International courts have repeatedly made clear that direct action protests, including lock-ons, occupations of land and other activities capable of deliberate disruption to others, fall within the scope of Articles 10 and 11. In *Hashman and Harrup v United Kingdom in 1999* the ECtHR stated:

> *It is true that the protest took the form of physically impeding the activities of which the applicants disapproved, but the Court considers nonetheless that they constituted expressions of opinion within the meaning of Article 10… The measures taken against the applicants were, therefore, interferences with their right to freedom of expression.*[23]

In the Frack Free Four case (R v Roberts & Others [2018] EWCA Crim 2739), the Court of Appeal stated (at para. 39), "there is no doubt that direct action protests fall within the scope of articles 10 and 11".[24]

The proscription of Palestine Action in July 2025 under the terms of the Terrorism Act 2000, by Home Secretary Yvette Cooper, therefore marks a radical escalation in the way that direct action (including action creating significant property damage) has been dealt with by government, police and the courts. Ahead of proscription, the UN Special Procedures of the Human Rights Council emphasised that in 2004 the UK voted for Security Council resolution 1566, agreeing that "Mere property damage, without endangering life, is not sufficiently serious to qualify as terrorism." The Special Procedures warned that in the case of proscription,

> Individuals could be prosecuted for peacefully exercising their rights to freedom of expression and opinion, assembly, association and participation in political life. This would have a chilling effect on political protest and advocacy generally in relation to defending human rights in Palestine.[25]

Indeed, the consequences of proscription are that police have made over 3000 arrests since July 2025 under s13 of the Terrorism Act for the public display of an article which may "arouse reasonable suspicion that [the bearer] is a member or supporter of a proscribed organisation", in this case holding placards stating support for Palestine Action and opposition to genocide. In the case of the Filton 4, highly constraining "terrorism connection" tariffs have correspondingly been applied to the sentences of activists found guilty of criminal damage during a direct action protest, under powers set out in s69 of the Sentencing Act 2020.

There is no universally accepted definition of what constitutes terrorism. However, the current UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul, has provided a model definition of terrorism. This definition stresses that a high bar should be set for damage to property to be considered as terrorism, and this should only apply to attacks on public property which cause extensive destruction, and it should exclude instances of even significant property damage without threat to life. Further, any definition "should exclude acts of advocacy, protest, dissent or industrial action where they do not cause death or serious injury".[26]

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23 Para 28, https://www.bailii.org/eu/cases/ECHR/1999/133.html
24 https://www.bailii.org/ew/cases/EWCA/Crim/2018/2739.html
25 UN experts urge United Kingdom not to misuse terrorism laws against protest group Palestine Action. 1 July 2025, https://www.ohchr.org/en/press-releases/2025/07/un-experts-urge-united-kingdom-not-misuse-terrorism-laws-against-protest
26 Defining terrorism to respect and protect human rights, A/HRC/61/52, 8 January 2026, https://docs.un.org/en/A/HRC/61/52

In our *State of Protest* 2025 report, we warned that solidarity with Palestine is now "conflated with narratives of foreign threat", and that national security logics now pervade the policing of protests which should instead be facilitated and protected as legitimate political expression, where "Powers once reserved for extraordinary conditions are now mainstream tools".[27]

The use of police powers to collectively restrict the right of freedom to protest is justifiable only in exceptional circumstances

WE SAY: The police must refrain from the indiscriminate or punitive use of mass arrests or containment (kettling) powers and use powers to disperse a protest only in exceptional circumstances. This includes the presumption of generally leaving protests to end by themselves without strict limits on duration.

The use of containment (kettling) powers as a means of crowd control is controversial because it treats individuals as collectively culpable for the actions of others, has the potential to increase rather than defuse tensions, and often denies people access to food, water and toilet facilities for long periods.

In 2012, the ECtHR disappointingly ruled that the use of kettling was lawful.[28] It has nonetheless been the subject of a number of successful civil actions against the police, notably following the mass arrest of 182 Critical Mass cyclists on the eve of the London Olympics in 2012[29] and the 153 arrests at an anti-EDL demonstration in Tower Hamlets in 2013.[30] Netpol's reporting on the policing of Black Lives Matter protests in London in 2020, both in the immediate aftermath of the 6 June demonstration[31] and in more depth in our subsequent report, was critical of the arbitrary use of kettling powers and the disproportionate length of detention.

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27 State of Protest 2025, p69.
28 European court says 'kettling' tactics in 2001 lawful, BBC News https://www.bbc.co.uk/news/uk-17378700
29 How the Met police criminalised the Critical Mass bike ride, Tom Richard, The Guardian, https://www.theguardian.com/environment/bike-blog/2013/mar/18/police-activism
30 Met police pay out £700,000 to detained anti-fascist protesters, Rob Evans, The Guardian, https://www.theguardian.com/uk-news/2019/jun/26/met-police-in-700k-payout-to-detained-anti-fascist-protesters
31 Kettling at Black Lives Matter protest in London was disproportionate and unlawful, Netpol press statement, 8 June 2020 https://netpol.org/2020/06/08/netpol-kettling-at-black-lives-matter-protest-in-london-was-disproportionate-and-unlawful/

In *In Our Millions*, we emphasised that kettling is particularly problematic because of its uneven effects on those who are caught within it: the experience of threat and intimidation caused by kettling is much greater for children and disabled people. We highlighted that kettling appears disproportionately targeted at people of colour, and is used as an informal form of collective punishment and intimidation, which in turn enables further police interventions, as it manufactures a situation of heightened risk and antagonism. Testimony collected by Netpol of police action at the DESI arms fair protest in September 2025 included that of a woman kettled with her infant son.[32] Kettling therefore combines multiple restrictions to protest rights.

According to the Venice Commission (Guidelines, at para. 217 and 218):

> *During assemblies, individuals should only be confined to designated areas in exceptional circumstances, such as actual or imminent violence, and where no other measure short of dispersing the assembly would resolve the issue. Strategies requiring assembly participants to remain in one confined area under police control (known as 'kettling' or 'corralling') should generally be avoided, as they do not distinguish between participants and non-participants, or between peaceful and non-peaceful participants.*
>
> *Law enforcement should in principle avoid mass arrests, which are frequently considered to be arbitrary under international human rights law and contrary to the presumption of innocence. Mass deprivation of liberty resulting from the simultaneous arrest of innocent persons and those believed to have violated the law should not be conducted simply because law enforcement agencies do not have sufficient resources to effect individual arrests of wrongdoers.*

UNHRC General Comment 37 adds (para. 84) that when kettling "is used indiscriminately or punitively, it violates the right of peaceful assembly, and may also violate other rights such as freedom from arbitrary detention and freedom of movement".

Rather than impose kettles, police may also collectively deny the right to protest through the use of dispersal powers. Section 35 of the Anti-social Behaviour, Crime and Policing Act 2014 allows police to disperse individuals in order to remove or reduce the likelihood of members of the public becoming "harassed, alarmed or distressed", or to prevent "the occurrence of crime or disorder" in a particular area.

During the passage of this legislation, Parliament briefly rejected plans to extend these anti-social behaviour powers because of concerns about the impact on fundamental freedoms.[33] Consequently, as a concession, the Act included a section that a senior officer, in deciding whether or not to authorise dispersal powers "must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11" [of the ECHR].[34]

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32 Netpol, Officers kettled me with my baby, 1 May 2026, https://netpol.org/2026/05/01/officers-kettled-me-with-my-baby/

33 Lords reject government's antisocial, crime and policing bill, The Guardian, 9 January 2014, https://www.theguardian.com/politics/2014/jan/09/lords-reject-antisocial-asbo-ipna-bill

34 See section 34 (3) https://www.legislation.gov.uk/ukpga/2014/12/section/34

However, in many documented cases protests have been subject to dispersal powers with little apparent regard to those rights. In November 2014, for example, Merseyside Police imposed a dispersal order against anti-fur activists in Liverpool city centre – despite the fact that they were not even protesting at the time.[35] In January 2016, opponents of a proposed fracking well-site in Cheshire were given dispersal notices when their protest camp was evicted and excluded from a wide area, apparently to disrupt their protest against the eviction.[36] In March 2016, Lindis Percy, a campaigner who hold a weekly vigil outside the US National Security Agency base at Menwith Hill was arrested and charged using Section 35 powers because her long-standing – and entirely peaceful – protest was suddenly designated 'anti-social'.[37]

In August 2020, Black Lives Matter campaigners in Newcastle-upon-Tyne were subject to a dispersal order simply because they had been threatened by far-right opponents.[38] In February 2021, the Metropolitan Police used dispersal powers to succeed in shutting down a Kurdish protest in north London.[39]

The problems caused by police kettling of Palestine solidarity marches were exacerbated by the *combination* of containment and dispersal strategies. At the London demonstration of 6 January 2024, protesters were first held within a cordon until just before 3pm, and then police issued a s35 dispersal order. Police then interpreted those leaving as attempts to stage a breakaway protest, and imposed a kettle, creating uncertainty, anxiety, and further disruption. We argued that it is hard to read this as anything other than an arbitrary and confused assertion of authority designed to intimidate and inconvenience protesters.

According to the Venice Commission (Guidelines, para. 179):

> *Dispersal is not permissible unless there is an imminent threat of violence or where an assembly would otherwise be unlawful because it violates applicable criminal law and constitutes a serious violation of the rights of others, under circumstances in which prosecutions of demonstrators after the assembly is not a safer and more practicable alternative.*

UNHRC in their General Comment 37 add (para. 85):

> *An assembly that remains peaceful while nevertheless causing a high level of disruption, such as the extended blocking of traffic, may be dispersed, as a rule, only if the disruption is "serious and sustained".*

35 See https://liverpooliww.wordpress.com/2014/12/01/liverpool-iww-condemns-police-use-of-dispersal-notices-against-activists/
36 Cheshire Police issue restrictive dispersal orders to Upton anti-fracking protesters, Netpol, 15 January 2016, https://netpol.org/2016/01/15/section-35-upton-fracking-camp/
37 Peacefully protesting pensioner arrested outside NSA spy base, RT, 17 March 2016, https://www.rt.com/uk/336005-peace-vigil-spy-base/
38 Police accused of 'encouraging the far right' by 'banning' anti-racist events, Chronicle Online, 10 August 2020, https://www.chroniclelive.co.uk/news/north-east-news/police-accused-encouraging-far-right-18739604
39 Police close down peaceful social-distanced Kurdish protest, Real Media, 14 February 2021, https://realmedia.press/police-stop-kurdish-protest/

Although public protests are collective activities, protesters are individually rather than collectively responsible for their actions

WE SAY: The police must not treat everyone participating in a protest or within a social or political movement as collectively culpable for isolated actions that may lead to arrests or treat everyone as collectively tainted by violence against them, either from counter-demonstrators or the police themselves.

In Ziliberg v. Moldova, a judgement involving a demonstration that took place in 2000, the ECtHR ruled:

> *an individual does not cease to enjoy the right to freedom of peaceful assembly as a result of sporadic violence or other punishable acts committed by others in the course of the demonstration, if the individual in question remains peaceful in his or her own intentions or behaviour.* [40]

However, police in Britain have been repeatedly criticised for failing to treat protesters as individuals who are each accountable for their own actions. Instead, they have categorised protest participants into discriminatory and arbitrary categories, including protester, "activist" and "extremist", or to label all individual participants of a protest as alleged extremists.

The result is that campaigners are policed more or less robustly not because of what they have done, but because of the label assigned to them, which is invariably based on a conservative and subjective view of their political beliefs.

For example, during Extinction Rebellion protests in October 2019, Netpol gathered evidence indicating the police were continuing to criminalise what they saw as an "illegal" movement and treating every member as collectively responsible for direct action by others, even if there was no indication they had done anything unlawful themselves.

One protester detained at Westminster Bridge was stopped by police who told her they were "stopping everyone who was part of Extinction Rebellion". She had an XR badge sewn on her dress but was simply returning to her hostel. She told Netpol: "during [the] following days I felt too intimidated to wear the dress with the badge and was in constant fear of being stopped again".[41]

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40 Ziliberberg v. Moldova, application No. 61821/00, inadmissibility decision of 4 May 2004. http://hudoc.echr.coe.int/eng?i=001-23889

41 See 'Restricting the Rebellion' https://netpol.org/2019/11/21/restricting-the-rebellion/

In 2015, Netpol raised concerns about the National Police Chiefs Council guidance on 'Policing linked to Onshore Oil and Gas Operations' that made such distinctions and suggested 'tailoring police responses towards these different groups'[42]

The UN Special Rapporteur on the right to freedom of peaceful assembly and of association has raised concerns (in reports in 2013[43] and 2017[44]) about the targeting of protesters as "domestic extremists" by police in Britain.

In November 2018, Netpol reported details from a training session given by Merseyside Police to public sector staff. Slides shared with Netpol urged staff to identify left wing anti-capitalist groups under "types of terrorism"/ "extremism" and how to identify animal rights and anti-fracking campaigners as extremists.[45] A summary of 'Extremist Symbols and Flags' issued by the Metropolitan Police Counter Terrorism Command in 2018 specifically references the Hunt Saboteurs Association and "Antifa" as domestic extremists.[46]

There has been a gradual acceptance that this kind of categorisation, which has no legal basis and has proven exceptionally difficult to define,[47] was increasingly impossible to defend. In August 2019, the Home Office confirmed that it was no longer labelling campaigners in this way.[48] In March 2021, HM Inspectorate of Constabulary, Fire & Rescue Services (HMCIFRS) unveiled a new term, *aggravated activism*, which it defined as:

> *activity that seeks to bring about political or social change but does so in a way that involves unlawful behaviour or criminality, has a negative impact upon community tensions, or causes an adverse economic impact to businesses.*[49]

As HMICFRS makes clear, aggravated activism predominantly concerns "largely peaceful protests, which may nevertheless involve an element of criminality and disruption" (in what the thematic review refers to as "low-level aggravated activism").

HMICFRS's immediate objective in coining this new term is to re-allocate police resources and responsibilities towards "effective" evidence gathering through a variety of surveillance methods, including covert surveillance, and the establishment of a new national unit, the intelligence and briefing team of the National Police Coordination Centre (NpoCC-SIB).

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42 Eighteen urgent questions on policing of anti-fracking protest, Netpol, https://netpol.org/2015/09/07/eighteen-questions/

43 Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on his follow-up mission to the United Kingdom of Great Britain and Northern Ireland, June 2013, https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/148/02/PDF/G1314802.pdf?OpenElement

44 Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on his follow-up mission to the United Kingdom of Great Britain and Northern Ireland, June 2017, https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/158/29/PDF/G1715829.pdf?OpenElement

45 Home Office forced by Netpol to release 'counter-radicalisation' training materials, Netpol, 1 May 2018, https://netpol.org/2018/05/01/home-office-wrap-training-prevent/

46 See https://netpol.org/wp-content/uploads/2019/04/Counter-Terrorism-Policing-Extremist-Symbols-and-Flags.pdf

47 Cameron terror strategy runs aground on definition of extremism, The Guardian, 3 May 2016, https://www.theguardian.com/politics/2016/may/03/david-cameron-terror-strategy-definition-extremism

48 Victory for Netpol campaigning as Home Office confirms it has stopped using the term "domestic extremism", Netpol, 9 August 2019, https://netpol.org/2019/08/09/victory-domestic-extremism/

49 HMICFRS, *Getting the balance right? An inspection of how effectively the police deal with protests*, March 2021, p21. https://netpol.org/wp-content/uploads/2021/03/under-embargo-getting-the-balance-right-an-inspection-of-how-effectively-the-police-deal-with-protests.pdf

Beyond this immediate objective, the term maintains the police's approach to targeting, labelling and stigmatising activists.

As we said in our initial response to this new term, everyone who has fought for rights that we now take for granted would have been called an "aggravated activist".[50]

Choosing to take part in a public protest is not an invitation to surveillance and denial of privacy

WE SAY: The police must ensure/guarantee the right to privacy. There should be strict limitations, genuine safeguards and specific prohibitions on the police's use of surveillance tools to track individuals organising or taking part in protests. These include: including video recordings, facial recognition, surveillance of social media sites used by campaigners and identification of a person's presence at protest through location tracking. These safeguards must include strict limits on the retention of personal data in order to profile campaigners and, to enable transparency and accountability, a presumption of individual access to any personal data held by the police relating to the organising or participation in assemblies.

Police evidence gatherers routinely and overtly film and video at almost all public assemblies, and often use drones. A large volume of images and other data (for example images from social media) about campaigners is routinely retained. The Venice Commission (Guidelines, para. 172) strongly advocate against this, except in specific circumstances and where specifically authorised:

> *Overt and covert surveillance of assembly participants should be strictly regulated and should follow a published policy. Digital images of organisers and participants in an assembly should not be recorded, except where specifically authorized by law and necessary in cases where there is probable cause to believe that the planners, organizers or participants will engage in serious unlawful activity. In general, intrusive overt or covert surveillance methods should only be applied where there is clear evidence that imminent unlawful activities, such as violence or use of fire arms are planned to take place during an assembly.*

50 Netpol, Are you an Aggravated Activist?, 11 March 2021, https://netpol.org/2021/03/11/are-you-an-aggravated-activist/

The Commission strongly asserts that "the use of digital image recording devices by law enforcement officers during a public assembly **may have a 'chilling effect' on freedom of assembly and curtail the exercise of this right**". It says that gathering and retaining information "on assembly participants in the absence of a concrete criminal investigation constitutes an interference with the participants' rights to freedom of assembly and privacy."

It further adds, at para. 71:

> *States should therefore refrain from using surveillance tools to track (or less still, persecute) persons taking part in assemblies and protest actions. Such technologies include police video recordings and facial recognition tools, surveillance of the Internet portals and social media sites used by activists and identification of a person's whereabouts through location tracking (to establish attendance at a demonstration or rally).*

On intelligence-gathering that involves trawling the internet for relevant information, The Venice guidelines add, at para. 163:

> *it is important that any information gathered in this manner is used for the sole purpose of police preparedness… and not for purposes of general profiling or monitoring or even surveillance of the activities of targeted individuals or groups.*

UNHRC General Comment 37 (para. 62) reinforces protection of the right to privacy:

> *The mere fact that a particular assembly takes place in public does not mean that participants' privacy cannot be violated. The right to privacy may be infringed, for example, by facial recognition and other technologies that can identify individual participants in a crowd. The same applies to the monitoring of social media to glean information about participation in peaceful assemblies.*

The ECtHR judgement in the 2019[51] legal challenge brought successfully by Brighton campaigner John Catt, who had discovered numerous entries about him on a "domestic extremism" database, is extremely helpful in this respect.

The Court found that John Catt's rights, under Article 8, to respect for private and family life were violated because information was retained on grounds that were too vague and had "neither been shown to be absolutely necessary nor for the purposes of a particular [criminal] inquiry". It also highlighted the absence of any meaningful rules or safeguards for keeping information collected on political campaigning and suggested personal data containing political opinions deserve a "heightened level of protection".[52] It too emphasised that knowing police may retain this kind of personal information, potentially indefinitely, must inevitably have a "chilling effect" on whether people participate in protests.[53]

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51 Catt v United Kingdom, European Court of Human Rights, 24 January 2019, https://www.bailii.org/eu/cases/ECHR/2019/76.html
52 Catt judgment, para. 112
53 Catt judgment, para. 123

In ensuring that the privacy of protest participants is respected, both international guidance and regional jurisprudence call for strong safeguards including strict rules and for independent and transparent scrutiny and oversight. If policing bodies feel obliged to carry out 'overt surveillance' and collect and retain personal details of individuals, this should be allowed only in limited and clearly defined circumstances (for instance to prevent or prosecute specific offences). It must also include a recognition of the detrimental impact of police surveillance can have on the right to protest.

Additionally, in order to meet the requirement for a "heightened level of protection" as set out in *UK v Catt*, police should treat information relating to political activities as a 'special category' of personal data as defined by the Data Protection Act 2018 and restrict the processing of this data to strictly limited circumstances.

What constitutes effective oversight and increased transparency needs explaining too. The UNHRC General Comment 37 (at para. 61) says:

> *such* [surveillance] *practices should be regulated by appropriate and publicly accessible domestic legal frameworks that are compatible with international standards and subject to scrutiny by the courts.*

It adds (at para.63):

> *Independent and transparent scrutiny and oversight must be exercised over the decision to collect the personal information and data of those engaged in peaceful assemblies and over its sharing or retention.*

Although HM Inspectorate of Constabulary has a general role in reporting to the Home Secretary and to Parliament about the effectiveness of police forces in England and Wales, there is currently no independent oversight over police units who conduct surveillance related to political activities and no transparency of any "extremism" or "protester" database.

Too often, requests for details about the operations of these units are rejected using the "law enforcement" or "national security" exemptions of the Freedom of Information Act and there is little clarity about how police classify risk – a situation that is unlikely to change as long as the policing of protest is entangled in the policing of counter-terrorism.

Recent legislation exacerbates this situation. The Venice Commission Guidelines stress that the wearing of masks or other face coverings at protests may be done for expressive purposes, and that they should not be prohibited where there is no demonstrable evidence of imminent violence. However, the Crime and Policing Act 2026 creates the new offence of concealing identity during a protest, giving police the power to designate an area as a "mask-free zone" for up to 24 hours. The Special Procedures of the Human Rights Council point out that safeguarding anonymity is "essential" to protest rights, and underline that the provisions of the Act may accordingly:

deepen the risk of misuse of surveillance technologies, while giving rise to chilling effects undermining the exercise of the rights to freedom of peaceful assembly and of association and to freedom of expression.[54]

As with kettling, we expect the effect of this new power to be particularly problematic in that it will combine restrictions on protest rights, having the greatest impact on racially minoritised and criminalised communities, those with disabilities, and those wearing face coverings for religious reasons. Netpol has documented the arrest in March 2026 by police under existing s60AA powers of a legal observer for wearing a face covering. This was despite the legal observer repeatedly telling police they were undergoing treatment for cancer and required the mask to reduce the risk of infection.[55]

Organisers of public protests, not the police, must decide their level of communication and dialogue

WE SAY: Whilst the police may seek to establish communication and dialogue with organisers before or during a protest, they must refrain from requiring such engagement or using a reluctance to communicate as an indicator that a protest no longer deserves the protection of laws on the rights to protest.

Most marches (as a result of notification requirements under the Public Order Act) and many static assemblies will have clearly identifiable organisers who communicate with the police before and during a protest. However, as the Venice guidelines make clear (in para. 124):

Dialogue and other forms of co-operation between organizers of an assembly and the relevant state authorities may be useful to ensure the smooth conduct of the assembly. At the same time, involvement in prior negotiations on the part of the organizers should be entirely voluntary. Unwillingness or refusal to engage in dialogue with the authorities should not have negative repercussions for the organizers or their assembly in relation to either the processing of the notification or the performance of the state's positive obligations to facilitate and protect a peaceful assembly.

This is important for avoiding the kind of "differentiated policing" mentioned earlier, where a reluctance to engage in dialogue is seen as an indication that participants in a protest are

54 Letter, Special Procedures of the Human Rights Council to UK Mission to the United Nations in Geneva, 3 July 2025, OL GBR 7/2025, https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=29987

55 Netpol, Prove you have cancer or face arrest, 28 March 2026, https://netpol.org/2026/03/28/prove-you-have-cancer-or-face-arrest/

part of an arbitrary "activist" or "extremist" category that requires an escalation of more 'robust' tactics. The Venice guidelines (at para. 88) add that:

> *if organizers or participants are unwilling to engage, then this should be accepted and should not, of itself, impact detrimentally on the performance of the state's human rights obligations in relation to the assembly. Where voluntary dialogue is not possible, the relevant law enforcement bodies must still ensure that their actions are aimed at de-escalating tensions.*

The UNHRC General Comment 37 (at para. 75) adds simply that *"while it is good practice for organizers and participants to engage in… contact* [with law enforcement], *they cannot be required to do so".*

Despite ostensible advantages of dialogue for both police and protesters, many protest groups view negotiated protests as a form of control, because it allows only those forms of protest considered 'acceptable' by the state. There is, therefore, a danger that negotiation can render protest 'harmless' and ultimately meaningless, because it removes the ability of protest to challenge state interests.

Others are wary of such interactions because of well-founded concerns about their vulnerability to unjustifiable intelligence gathering. This is because protest organisers are often directed to talk to Police Liaison Officers (PLOs) rather than negotiate directly with senior officers or public order commanders. Liaison policing or 'dialogue policing' is often 'sold' to protest organisers as the means by which they can negotiate with the police prior to an event.

The Joint Committee on Human Rights, in its 2009 report *Demonstrating respect for rights? A human rights approach to policing protest* that ushered in the creation of liaison policing, emphasised that *"for such an approach to work there must be attempts on all sides to build trust. Conflicts and disagreements may well arise, but a relationship based on trust requires conflicts to be dealt with quickly and without cost to protestors"*.[56]

However, as Netpol has repeatedly demonstrated, a primary role of PLOs is to obtain information and intelligence about protest and the people that participate in it.[57] They will do this through negotiation with protest organisers, but also by embedding themselves within protest crowds and by seeking to establish personal relationships with both organisers and participants over the longer term.[58]

Furthermore our report in 2019 on Extinction Rebellion's protests in London also noted, even when a campaigning group is fully committed to dialogue, this can mean in one direction only. The XR Police Liaison group told us that the Metropolitan Police's

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56 Para 204, https://publications.parliament.uk/pa/jt200809/jtselect/jtrights/47/4710.htm

57 See Review reveals Police Liaison Officers played 'pivotal role' in Balcombe protest intelligence gathering, Netpol, 17 June 2014, https://netpol.org/2014/06/17/police-liaison-intelligence-balcombe/ and Police Liaison Officers – Intelligence gathering, self-policing and the dangers of talking to the police, Netpol, 13 March 2013, https://netpol.org/2013/03/13/police-liaison-officers-intelligence-gathering-self-policing-and-the-dangers-of-talking-to-the-police/

58 See Netpol's short film about the role of intelligence-gathering Police Liaison Officers, https://netpol.org/police-liaison-officers-film/

Gateway Liaison Team was "unhelpful, at times intimidating and repetitive in simply regurgitating messages from above" and at point told campaigners that the police would "use every legislative tool in the book to prevent XR disrupting Londoners". This is far from engagement in dialogue based on good faith or building trust.[59]

It is important to reiterate, therefore, that expecting protest organisers to agree to a complete 'liaison policing' package as part of negotiations is an unacceptable pre-condition. There have, however, been indications from the National Police Chiefs Council in the past that PLOs are "likely to be deployed even at events where non-engagement is believed to be likely".[60]

If prior agreements have been made, protest organisers and the police can also ensure any communication takes place between named contacts agreed in advance, rather than rely on an operational need for PLOs to intervene with protestors – even if PLOs are a more convenient option for the police.

Independent monitoring of the policing of protests is essential for defending the right to organise and participate in public assemblies

WE SAY: The police must ensure that independent monitoring of protests is treated as particularly important to the full enjoyment of protest rights and ensure that even if a protest is declared unlawful, the right to monitor the actions of the police is not restricted.

The Venice Commission guidelines state (at para. 204) that *"the right to be physically present in order to observe a public assembly is part of the general human right to receive and impart information (a corollary of the right to freedom of expression)"* and adds (in para. 207):

> *Individuals and groups should be permitted to operate freely in the context of monitoring assemblies, and the exercise of the right to freedom of peaceful assembly. State authorities should not prevent monitoring activities, irrespective of whether an assembly has complied with the requisite notification requirements, or whether it is peaceful or not.*

On the use of police powers directed towards independent monitors, the guidelines also recognise that (at para. 208):

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59 See 'Restricting the Rebellion' https://netpol.org/2019/11/21/restricting-the-rebellion/, Conclusions and Appendix 4

60 Is dialogue with Police Liaison Officers really 'voluntary'?, Netpol, 6 September 2016, https://netpol.org/2016/09/06/liaison-voluntary-dialogue/

Monitors are observers of, rather than participants in, an assembly. In principle, therefore, dispersal orders directed at assembly participants should not oblige monitors to leave the area (unless their individual safety is endangered)

UNHRC General Comment 37 (at para. 30) also confirms that independent monitors of assemblies have a "particular importance for the full enjoyment of the right of peaceful assembly" and specifically adds:

They may not be prohibited from, or unduly limited in, exercising these functions, including with respect to monitoring the actions of law enforcement officials. They must not face reprisals or other harassment, and their equipment must not be confiscated or damaged. Even if an assembly is declared unlawful or is dispersed, that does not terminate the right to monitor.

However, these principles are not always respected or adhered to by police in Britain.

During both the Extinction Rebellion protests in October 2019 and the Black Lives Matter protests in London in 2020, concerns were raised by Netpol about the police failing to accept that those monitoring the demonstrations were not participants.

In October 2019, legal observers from the Independent Legal Observers Network were threatened with arrest whilst monitoring the detention of an Extinction Rebellion protester, who was a wheelchair user.[61] In Netpol's report on the policing of the Black Lives Matter protests, we noted:

Despite being clearly identifiable in high visibility reflective jackets and their independent non-protester status, there are widespread reports of the police acting aggressively towards legal observers to the point of physical violence. This behaviour was reported as being disproportionately targeted at legal observers from black and other racialised minorities.

A 2022 report by the Article 11 Trust found that legal observers experienced high levels of harassment, violence and discrimination from police: 70% had experienced harassment, 75% intimidation, 70% intrusive surveillance, 75% threat of arrest, and 90% aggression or physical force. Testimony from one legal observer underlies that: "Shoving and pushing is routine. I've been charged with horses, been chased with dogs. Knocked over by being pushed with a riot shield. Pushed backwards over some metal bike racks and got quite an injury".

Typical of the rights impacts of policing, legal observers identified discriminatory police perceptions based on gender, class, age and ethnicity.[62]

Since the publication of the Article 11 Trust report, Netpol has received further concerning testimony from legal observers. Two legal observers told us how Greater Manchester police assaulted and injured them whilst they were monitoring the policing

61 See Account 13, 'Restricting the Rebellion' https://netpol.org/2019/11/21/restricting-the-rebellion/

62 Netpol/Article 11 Trust, *Protecting Protest: Police Treatment of Legal Observers*, 2022, https://article11trust.org.uk/wp-content/uploads/2022/05/Police-Treatment-of-LOs-Web-Version.pdf

of a counter-demonstration against a small far-right rally at the University of Manchester in February 2024.[63]

And as we reported in *In Our Millions*, Netpol has received multiple accounts of police harassment and attempted intimidation of legal observers during pro-Palestine demonstrations.[64] This is despite clear guidance in the Public Order Act 2023 that police "may not exercise a police power for the sole purpose of preventing a person from observing or reporting on a protest".

Imposing financial burdens on organisers restricts the right to freedom to protest

WE SAY: The police must refrain from imposing on organisers or participants in protests a requirement to contribute to the cost of policing, security, medical support or street cleaning as a condition for permitting the right to protest.

Complaints about unexpected financial costs placed on protest organisers have surfaced on a number of occasions. In 2014, CND and Action AWE, the joint organisers of an anti-Trident missiles demonstration, were initially told by the Metropolitan Police that they had to hire a private firm to steward the protest and that they needed to undertake a traffic management plan. Despite CND's decades of stewarding, they were told they needed to hire an 'approved' firm.

In 2015, the Metropolitan Police and Westminster Council tried unsuccessfully to impose payment for a 'traffic management plan' and specialist stewards of a climate demonstration and a few months later, the annual Million Women Rise march was told they had to pay around £10,000 for "certified stewards".[65] Eventually a coalition of organisations came together to jointly reject attempts by the Metropolitan Police to impose such conditions[66].

More recently, campaigners sought help from Netpol in 2020 to reject the insistence of Kent Police and Folkestone & Hythe District Council that they required a traffic management plan as a pre-condition for an event greeting asylum seekers that the Home Office intended to place in a disused army barracks.

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63 Netpol, Greater Manchester Police must account for police violence against legal observers, 21 February 2024, https://netpol.org/2024/02/21/greater-manchester-police-must-account-for-police-violence-against-legal-observers/

64 Netpol, *In Our Millions*, p.32

65 Resisting the police's new 'pay-to-protest' policy, Netpol, 11 February 2015, https://netpol.org/2015/02/11/pay-to-protest/

66 Protest organisers reject police 'pay-to-protest' conditions, Netpol, 19 February 2015, https://netpol.org/2015/02/19/protest-organisers-reject-police-pay-to-protest-conditions/

The Venice Commission guidelines state (in para. 155)

> *State authorities should not make the policing or facilitation of a peaceful assembly contingent on the payment of the respective costs by the organizers. The facilitation of assemblies is an inherent part of the role of law enforcement and needs to be undertaken by the state regardless of the nature, size or other circumstances surrounding an assembly. Moreover, organizers of public assemblies should not be required to obtain public liability insurance prior to holding their event… Obliging assembly organizers to pay such costs would create a significant deterrent for those wishing to enjoy their right to freedom of peaceful assembly and is likely to be prohibitively expensive.*

Further, UNHRC General Comment 37 adds (at para. 64):

> *Requirements for participants or organizers either to arrange for or to contribute towards the costs of policing or security, medical assistance or cleaning, or other public services associated with peaceful assemblies are generally not compatible with article 21* [of the International Covenant on Civil and Political Rights]

The police have a particular duty to protect the rights of vulnerable or disabled people wishing to exercise their right to protest

WE SAY: The police must treat potentially vulnerable participants, such as children or people with disabilities, with particular care and refrain from using their vulnerability as a justification for restricting their rights to protest.

Concerns about the treatment of protesters with disabilities have been repeatedly raised. Back in 2012, Disabled People Against Cuts accused the police of unnecessary aggression, again involving wheelchair users. at a protest at the Department of Work and Pensions (DWP) that left one with a fractured shoulder.[67]

During anti-fracking protests in Lancashire, there were repeated allegations about the targeting of disabled protesters (including repeatedly tipping a wheelchair user from his chair).[68] Lancashire Police admitted that it passed on details and video footage of disabled

67 Wheelchair protesters injured by police, Netpol, 1 September 2012, https://netpol.org/2012/09/01/wheelchair-protesters-injured-by-police/

68 'Kicked, punched, knocked unconscious, tipped out of wheelchairs': Campaigners describe repeated police targeting of disabled anti-fracking protesters, Disability News Service, 13 December 2018, https://www.disabilitynewsservice.com/kicked-punched-knocked-unconscious-tipped-out-of-wheelchairs-campaigners-describe-repeated-police-targeting-of-disabled-anti-fracking-protesters/

anti-fracking protesters to the DWP in order to discourage them from returning to the protest site.[69]

Most recently, violent and discriminatory treatment by police officers of protestors with disabilities, reported by Netpol in our report on the policing of Extinction Rebellion protests, added weight to concerns raised by the Metropolitan Police's own Disability Independent Advisory Group, who threatened to resign over the "degrading and humiliating" treatment of disabled activists.[70] T his included the arrest of a carer who came to help a seriously ill woman in a wheelchair adjust her oxygen tank and the confiscation of disability ramps, specially adapted toilets and other items intended to make protest sites accessible to disabled people.

The Venice Commission (Guidelines, para 215) state that medical support "for the special needs of potentially vulnerable assembly participants such as children, pregnant women or persons with disabilities needs to be taken into account" and adds (at para. 217):

> *The practice of kettling may also be particularly detrimental to vulnerable individuals such as children, pregnant women, and persons with disabilities, especially if those disabilities affect mobility.*

69 Police force admits passing disabled anti-fracking protesters' details to DWP, The Independent, https://www.independent.co.uk/news/uk/home-news/police-disabled-protesters-fracking-blackpool-lancashire-dwp-fraud-a8696381.html

70 Met police accused of 'degrading' treatment of disabled XR activists, The Guardian, 29 October 2019, https://www.theguardian.com/uk-news/2019/oct/29/met-treatment-of-disabled-xr-activists-branded-degrading-and-humiliating

APPENDIX: The core principles and legal framework of public order policing

The codification of public order policing originally called for in HMIC's "Nurturing the British Model of Policing" review is set out in "authorised professional practice" guidance published by the College of Policing. This sets out six core principles for public order policing operations, including two that are particularly relevant to the issues addressed by this report: the proportionality of the police's response to protests and communication.

On proportionality, senior officers are reminded[71] of the following:

- [the need to] *demonstrate consideration and application of relevant human rights principles*
- [and that] *police powers should be used appropriately and proportionately.*
- *planning should be based on information and intelligence.*
- *commanders should make professional judgements based on information and experience and not just rely on formally assessed intelligence.*
- *use of force implications* [are] *considered.*

On communication, senior officers are reminded that *"messages should be planned, unambiguous, clear and coordinated".*

The College of Policing also sets out the legal framework for policing protests, including the duty to protect the right to freedom of assembly set out in Article 11 of the European Convention on Human Rights:

> *The police must not prevent, hinder or restrict peaceful assembly except to the extent allowed by ECHR Article 11(2). They must not impose unreasonable indirect restrictions on persons exercising their rights to peaceful assembly, eg, imposing a condition on the location of a protest which effectively negates the purpose of the protest. Pre-emptive measures taken by the police which restrict the exercise of the right to peaceful assembly will be subject to particular scrutiny.*

Article 11 is a qualified right: part 2 refers to exemptions "such as are prescribed by law" (in other words, that protesters are liable to arrest) or restrictions "necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others".

Furthermore, public order policing operations are required to consider general principles on the use of force,[72] which ask:

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71 https://www.app.college.police.uk/app-content/public-order/core-principles-and-legislation/#core-principles

72 College of Policing: general principles on the use of force https://www.app.college.police.uk/app-content/public-order/core-principles-and-legislation/police-use-of-force/#general-principles

- *would the use of force have a lawful objective (eg, the prevention of injury to others or damage to property, or the effecting of a lawful arrest) and, if so, how immediate and grave is the threat posed?*
- *are there any means, short of the use of force, capable of attaining the lawful objective identified?*
- *having regard to the nature and gravity of the threat, and the potential for adverse consequences to arise from the use of force (including the risk of escalation and the exposure of others to harm) what is the minimum level of force required to attain the objective identified, and would the use of that level of force be proportionate or excessive?*

There are also ten key principles governing the use of force[73] that were recommended by the HM Inspectorate of Constabulary's review of the English riots in August 2011. These principles include:

> *Police officers may, consistent with this duty, use force in the exercise of particular statutory powers, for the prevention of crime or in effecting a lawful arrest. They may also do so in self defence or the defence of others, to stop or prevent an imminent breach of the peace, and to protect property;*
>
> *Police officers shall, as far as possible, apply non-violent methods before resorting to any use of force. They should use force only when other methods have proved ineffective, or when it is honestly and reasonably judged that there is no realistic prospect of achieving the lawful objective identified without force;*
>
> *When force is used it shall be exercised with restraint. It shall be the minimum honestly and reasonably judged to be necessary to attain the lawful objective;*

Finally, at the time of writing the National Police Chiefs Council (NPCC) has consulted on a draft "Protest Operational Advice Document".[74] This sets out the current thinking at the most senior levels of policing on the approach to protests.

Unfortunately as Netpol has pointed out in a submission to the NPCC,[75] this draft advice seeks to distinguish between protests that cause incidental or collateral disruption and protests that aim to interfere with other persons use of their own property (which it claims is not protected under rights to freedom of expression or freedom of assembly). In our view this is simply wrong in law: it is well-established and beyond doubt that deliberately disruptive protest remains within the scope of Articles 10 and 11 of the ECHR.

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73 Ten Key Principles Governing the Use of Force by the Police Service
http://library.college.police.uk/docs/APPref/use-of-force-principles.pdf

74 National Police Chiefs Council: Protest Operational Advice
https://netpol.org/wp-content/uploads/2019/09/NPCC-Protest-Operational-Advice-Document-August-FINAL.pdf

75 Netpol's submission to the National Police Chiefs Council on its Protest Operational Advice
https://netpol.org/wp-content/uploads/2019/09/Netpol-NPCC-PUBLIC-ORDER-ADVICE-submission-final.pdf

NET POL The Network for Police Monitoring