

Written evidence

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What is the value of protest?

Protest is an integral part of a democratic system. It is a legitimate civic response to perceived deficits in the democratic polity, enabling citizens to express their views and push for change outside the remit of five-yearly elections. In the context of human rights, the right to assembly and freedom of expression was guaranteed by the European Convention on Human Rights, articles 10 and 11, and enacted in article 6(1) of the 1998 Human Rights Act.

The European Convention on Human Rights, formed in the post-World War Two context of reconstruction, believed that by creating a minimum guarantee of judicially enforceable rights, the likelihood of political extremism, seen to flourish in times when political leaders were able to dispense with the rule of law with impunity, would be reduced.¹ This context is still valid and relevant in the current climate of the resurgence of the Far Right and of totalitarian and repressive regimes across the world. The right to protest in popular revolutions such as the ‘colour revolutions’ that occurred in central and Eastern Europe and in the Middle East, were rightly valorised by democratic regimes, and the occupation of civic squares and civil disobedience being regarded as legitimate forms of self-determination by the populace. Civil disobedience – that is symbolic in its nature, and not seeking to overturn the democratic polity – is part of popular protest. Groups or individuals who engage in protest activities that seek to overturn democracy through violent means are not.

Governments have tended to respond to popular pressure and campaigns rather than pro-actively instituting positive or progressive change without such external pressure. States never pass reforms or change in a vacuum. Many MPs indeed have developed their political ideas and careers through involvement with political movements outside parliament, for example the trade union movement of the late nineteenth century that engendered the Independent Labour Party. Our current Prime Minister had worked as a barrister on behalf of the National Council for Civil Liberties, for example representing two defendants who had been arrested for aggravated trespass at Stonehenge in 1995. In that case, the eventual judicial decision ruled in their favour, which was the first time that the High Court had recognised a right of assembly.²

Protests have been successful in effecting change. The long-term establishment of the democratic system and equality rights, for example, were pushed for by protest movements.

¹ David Mead, *The New Law of Peaceful Protest: Rights and Regulation in the Human Rights Era* (Bloomsbury, 2010), pp. 12, 18.

² *Director of Public Prosecutions v Jones* (Margaret) 1999 2 W.L.R. 625 H.L.

Though protesters may not have been immediately successful in achieving their aims, for example the Chartist movement of the 1830s and 1840s seeking the vote for all men and parliamentary reform, these aims of the movements were nevertheless achieved in the long term. Protest movements also temper more extreme or repressive elements of the erosion of rights. For example, the peaceful campaigns to repeal the ‘Sus’ laws of policing particularly Black youth in the 1980s, or the campaign by Gay rights groups to repeal Section 28.

Have protests become ‘faster, more decentralised and more disruptive’?

Protest movements ebb and flow with each generation in response to different issues and national/international circumstances. They generally draw from a repertoire of similar tactics³ that have remained relatively consistent from the start of democratic campaigning from the nineteenth century onwards. Such range of tactics include street assemblies and marches, to civil disobedience such as sit ins and obstruction of the highway.

There are direct historical precedents of the types of tactics that have been criminalised under recent legislation as ‘serious disruption’. The environmental campaigners of the early 1990s, notably anti-roads protesters, used locking-on to infrastructure and tunnelling. The Royal Holloway University research project Oral Histories of the Environmental Movement, for example, interviewed one of the most famous anti-roads protesters of the 1990s, Daniel Hooper, who testified that they were initially allowed by the police to exercise their liberty to protest in this way, whereas in his experience more recently of being involved in the anti-HS2 railway protest, the protesters who had tunnelled were treated immediately more severely by security guards on the site.⁴ The tactics and level of disruption therefore had not changed, but the severity of the response to the protesters had increased to a level that potentially endangered their rights to protest.

Earlier precedents of locking on to infrastructure and street furniture, heckling meetings and obstruction of roads were carried out notably by the Suffragettes in their campaign of 1909-11 and their more militant campaign of violence in 1911-14. In April 1909, 4 suffragettes chained themselves to statues in St Stephen’s Hall, and had to be removed by bolt cutters. In October 1908, the Women’s Freedom League chained themselves to the grille of the Ladies’ Gallery and had to be carried out still attached to the grille. In January 1908 two suffragettes chained themselves to the railings of Downing Street.⁵

³ Charles Tilly (2005) ‘Introduction to Part II: Invention, Diffusion, and Transformation of the Social Movement Repertoire’, *European Review of History: Revue européenne d’histoire*, 12(2), 307–320. doi: 10.1080/13507480500269134; Maria T. Grasso Marco Giugni (2016), ‘Do Issues Matter? AntiAusterity Protests’ Composition, Values, and Action Repertoires Compared’, in *Protest, Social Movements and Global Democracy Since 2011: New Perspectives*, 31-58. <http://dx.doi.org/10.1108/S0163-786X20160000039002>

⁴ Oral History interviews will be available open access soon: <https://www.royalholloway.ac.uk/research-and-education/departments-and-schools/geography/oral-history-of-the-environmental-movement-project/outputs/>

⁵ Conor Gearty (2025), ‘The Suffragette Movement and civil liberties’, *Cambridge Law Journal*, 1-28, doi:10.1017/S0008197325101001

Earlier forms of ‘disruptive’ civil disobedience such as locking on did not attract such severe sentences and penalties as under current legislation. Police used minor charges on Suffragettes to avoid them coming before a jury, or binding orders to keep the peace, which did not necessarily need proof of a criminal offence having occurred. Suffragettes by contrast determined that they were political prisoners and ought to be charged on the same terms as men, and also to ensure a jury trial.

Most movements rely on a combination of different levels of tactics and pressure. The difference between ‘peaceful’ and ‘militant’ protests is not fixed or necessarily binary. One type of protest could be considered as militant or illegal in one era, and then regarded as peaceful and legitimate in another. Context and social attitudes shaped the perception of militancy. Militancy was a reactive phenomenon in response to repressive treatment by the state. Suffragette militancy made women’s enfranchisement visible in public spaces. The presence of suffragettes in male arenas such as the street and especially in party political meetings and in parliament were regarded as militant because they were seen as being in the wrong place and out of place.⁶

There are historical precedents of decentralised organisation. The New Social Movements of the 1960s, especially the anti-nuclear and anti-Vietnam War protests, deliberately adopted decentralised forms of organisation to distinguish themselves from the traditional modes of organisation of trade unions or parliamentary parties.⁷

Previously, government and police response to protest was generally reactive to specific movements and tactics. The first general legislation of the modern era to deal with public order offences effectively was the 1908 Public Order Act that was aimed at tackling suffragette practice of heckling election meetings. The 1936 Public Order Act was passed swiftly through parliament in response to the Battle of Cable Street of 4 October 1936, but only applied to marches and processions, not to static assemblies. In 1962-3, the Home Office and Police considered whether a new Public Order Act was needed, but concluded that Far Right activities could be effectively dealt with either under existing statute law or under common law.⁸ Racial harassment was added as a clause in the Public Order Act 1936 by the 1965 Race Relations Act, section 6. It was then not until fifty years later that another Public Order Act was passed. Again, the legislation of 1986 was passed in reaction to specific movements and tactics, in part to the Miners’ Strike but also to New Traveller gatherings in the countryside, alongside other groups engaging not in protest but in what was regarded as aggravated trespass, then not a criminal offence.⁹

⁶ L.E. Nym Mayhall, (2000), ‘Defining Militancy: Radical Protest, the Constitutional Idiom, and Women’s Suffrage in Britain, 1908–1909’, *Journal of British Studies*, 39, pp. 340, 357.

⁷ Celia Hughes, *Young Lives on the Left: Sixties Activism and the Liberation of the Self* (Manchester, 2025).

⁸ The National Archives, Cabinet correspondence, Public Order policy in regard to public meetings and protest marches, 1962-63, CAB 21/5741.

⁹ The National Archives, Home Office papers, Review of Public Order Act 1936, 1980-1, HO 342/369; Public Order Bill papers, 1985, HO 325/745; David Mead et al (2026), ‘The Public Order Act 1986 at 40’, *Public Law*, 155-204.

Nevertheless, the passage of legislation was considered in depth between the Home Office, police and law officers, and went through constitutional processes from inquiries to Green and White Papers and other inquiries, deliberative processes that have more recently been dispensed with.

There has not been such a rapid concentration of Public Order bills and legislation targeting protest tactics and groups in modern history. It is since 2020, when the then Home Secretary Priti Patel announced that a ‘modest reset of the scales’ was needed in the balance between rights to protest and the rights of the individual, that government reactions to protest movements have become faster and more disruptive of that right to protest. The passage of the series of new legislative measures since 2022 has been in response not because of new tactics or increased disruption in the long historical context, but a managerial logic of policing, an issue of resources and training lobbied for especially by the Metropolitan police – it has not been the case of filling in loopholes in the law.¹⁰

Should government pass measures against the cumulative impact of protests?

Protest movements generally do not organise one extraordinary protest and then give up. Sustained effort is at the heart of political campaigning. Civil disobedience through symbolic and time limited though repetitive incidents were integral part of many campaigns in history. Repeated protests that are not designed to overthrow democracy, but to express discontent symbolically at the shortcomings of the system that require remedy or redress, are essential as part of the working of the democratic system.

Cumulative protests were a key element of the women’s suffrage campaigns of 1906-9, and 1911-14. The Women’s Social and Political Union (WSPU) made at least 13 major attempts to ‘storm’ parliament to present a petition, a right to petition that they believed was enshrined in clause 5 of the 1689 Bill of Rights. In February 1907, the ‘Woman’s Parliament’ was held at Caxton Hall, and their subsequent march on parliament was repelled by police. 54 women were imprisoned for 2 weeks. In December 1908, suffragettes stormed the Albert Hall where David Lloyd George was speaking. Hecklers were brutally beaten, despite Lloyd George’s advice to them to keep ‘pestering’ patiently. This incident resulted in a private members’ bill, the Public Meetings Act 1908, which was passed in record time through both houses. It made disorderly conduct at meetings an offence. However, police decided not to prosecute under the Act, and party leaders were also reluctant to be seen to prosecute idealistic women. In June 1909, the WSPU’s 13th attempt to petition parliament led to 120 arrests, after PM Asquith’s refusal to meet Mrs Pankhurst caused the peaceful procession to attempt to force their way into the House of Commons. The authorities responded to the escalation of militant suffragette protest in 1911 by using common law of conspiracy. In May

¹⁰ Richard Martin (2021), ‘The Protest Provisions of the Police, Crime, Sentencing and Court Bill: a “Modest Reset of the Scales”?’ *Crim.L.R.* 12, 1008-28.

1912, for example, Mrs Pankhurst and Mr and Mrs Pethick Lawrence were brought before the Central Criminal Court on charges of conspiracy.¹¹

The issue raised today about cumulative protest stems from changing attitudes by police and legislation about definitions of protest within public order law. The 1986 Public Order Act signalled a policy change from understanding protest as integral to the working of a democratic system, to that of protest as ‘disruption’. As legal scholars have argued, since 1994 if not from 1986, protest has been framed as disruption, disruption is framed as protest, and disruption is presumed to mean disorder.¹² This is a problematic elision of understandings of protest and its forms and purpose.

Are provisions to limit noise levels at protests necessary?

The noise and sound of protest is integral to its meaning and effect. Protesters make a claim through vocal expression and a long tradition of protest song and chants, as part of a culture of the freedom of expression. The people calling for democracy on St Peter’s Fields, Manchester, in 1819, and the Chartists in the 1830s and 1840s, to the women’s suffrage campaigners in the 1890s and 1900s used song and chants as essential part of their marches and demonstrations. Silent protests, for example the Chartist silent protests in Sheffield in 1839 and the silent marches of the Grenfell vigils in more recent years, draw their very power from the fact that they are unusual and stand out from the noise of protest.

Again, the issue revolves around who defines what is ‘disruption’ and the effect that such disruption has on ‘nearby persons’, and who those nearby persons are. The peaceful demonstrators at what became the Peterloo Massacre on 16 August 1819 were brutally cut down by yeomanry cavalry and military upon order of the magistrates because the justices of the peace believed that the crowd had the potential to cause ‘terror of the respectable inhabitants’. The Home Office had instructed the magistrates that they could suppress the mass meeting ‘by the law or by the sword’.¹³ It is now widely agreed that the unprovoked violence of the military forces against the peaceful crowd of men, women and children, leading to 18 deaths and over 750 serious injuries, was unjustifiable. The organisers of the meeting were arrested under a judicial and magisterial fabrication of ‘seditious assembly’ as a novel concept in common law, in which the character of a meeting rather than what was said and done could be sufficient to make it unlawful and its violent dispersal lawful. The convictions strengthened the discretionary power of magistrates.

Authorities have over-reacted to perceived threats by peaceful protests in ways that have diminished their rights and prevented progress and reform. The presentation of the third national petition by the Chartists on 10 April 1848 was prevented because the metropolitan

¹¹ Gearty, ‘The Suffragette Movement and civil liberties’, 22.

¹² Richard Martin (2025), ‘Environmental Protest, Contention and the Law: Conceptualising the Public Order Act 2023’, *Journal of the Law Society*, 52, p. 372, doi.org/10.1111/jols.70009

¹³ Robert Poole (2006), ‘By the Law or the Sword’: Peterloo Revisited’, *History*, 91, 254-276, doi: 10.1111/j.1468-229X.2006.00366.x.

police declared that the proposed mass procession from Kennington Common to parliament was ‘calculated to excite terror and alarm in the minds of Her Majesty’s subjects’, even though it was evident that the meeting on the common was peaceful and the Chartists were not armed. By contrast, the authorities had raised 12,000 police and military, and up to 85,000 special constables, in anticipation of a revolution that was never intended by the Chartists.¹⁴

The elision in public order legislation between disruption and forms of behaviour that are not protests creates a difficult issue around discretion and assessment of who is affected. The 1994 Criminal Justice and Public Order Act gave police powers to shut down raves if they were ‘likely to cause serious distress to the inhabitants of the locality’. In preparing the bill, law officers and government official cautioned against a legislative ban on activities by groups who were not all protesters: a ban on hunt saboteurs, for example, ‘would criminalise activities more usually perceived as irritations or nuisance rather than crimes’.¹⁵ In this, public order legislation was extended beyond breaches of the peace and intimidation towards the disruption of lawful activity. The 2003 Antisocial Behaviour Act reduced the number of people defined as an assembly from 20 to 2, and the current provisions are for one-person protests.

The framing of ‘law abiding citizens’ needing protection against protesters has been a rhetorical staple of Conservative Party manifestos since the 1960s. In 1981, at the peak of banning orders on demonstrations and marches, the Home Secretary proposed an alternative test to breach of the peace and intimidation, of ‘serious disruption to the normal life of the community’.¹⁶ This shift of meaning and framing of protest and disruption is evident in the recent legislation. In many cases the division between protesters and the ‘respectable inhabitants’ or ‘everyday hardworking people’ ‘carrying out day to day activities’ and ‘making a journey’, comes from an understanding of the protesting crowd as a ‘mob’.

The false binary placed between disruptive protesters and ‘hardworking people’ going about their business has echoes of the Victorian belief in the division between ‘idle’ and ‘industrious’ poor. Many peaceful protests in effect disrupt people making a journey, temporarily, and other forms of gathering do too, such as May Day labour marches or the Notting Hill carnival. Perceptions of protests and gatherings as inherently disruptive or violent also draw from discredited theories of the crowd, which depict protesters as a ‘mob’, with irrational motives and unthinking violent tendencies.¹⁷ Disruption to ‘day to day activities’ and national infrastructure risks expanding a political economy of protest in which economic interests and rights of business are privileged over protest rights, not least, as

¹⁴ Malcolm Chase, *Chartism: a New History* (Manchester, 2013), pp. 300-2.

¹⁵ The National Archives, Home Office papers, Home Secretary’s meeting, 22 March 1993, HO 558/43.

¹⁶ The National Archives, Home Office papers, Review of Public Order Act 1936, 1980-1, HO 342/369.

¹⁷ Dan Hancox, *Multitudes: How Crowds Made the Modern World* (Verso, 2024).

scholars of policing and the law have argued, dictated by the organisational logic of police.¹⁸ There have been many historical instances of repression of peaceful protest that have been met by major brutality on the part of police or other authorities. The failures of policing and resources, however, is not a valid reason to change the law to give more powers.

¹⁸ Richard Martin (2025), 'Environmental Protest, Contention and the Law: Conceptualising the Public Order Act 2023', *Journal of the Law Society*, 52, p. 372, doi.org/10.1111/jols.70009