

The future of protest is in danger

*The freedom to protest is one of the fundamental rights in a liberal democracy. But a series of public order laws passed by Parliament in recent years have made the right to protest increasingly hard to exercise. With a Labour government unlikely to overturn these laws, **Conor Gearty** argues that the future of protest depends on smarter and new ways of mass action against state power.*

Does protest have a future? That's a question that, even just ten or so years ago, I would have found unthinkable, not only here in the United Kingdom but around the world as well. That was a time when human rights seemed to be on the march everywhere, the Arab Spring was throwing authoritarian regimes in north Africa and the Middle East into turmoil, and even confident despots like Vladimir Putin in Russia and Alexander Lukashenko in Belarus were having to deploy high levels of coercion merely to mind their backs. Liberals have always been tempted to believe that the course of history leads inevitably to ever-increasing levels of personal freedom, that they are bound to win. That is how many felt.

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No more. This year I ran a new lecture series at LSE, on [Freedom and the Law in Britain](#). Open to all – academic staff, students and professional services alike – the idea was to escape the tyranny of compulsion, of course codes, course work and exam prep, to offer a fresh perspective on a subject of what was clearly great contemporary interest, an idea first triggered by the efforts to [control protest](#) about the Israeli destruction of Gaza. But it was also to bring some much-needed historical perspective. My plan was to show how it has invariably been a struggle to exercise civil liberties, that every new group always gets a rough time from the police and the public until (if they win) they are retrospectively deified as constitutional treasures. Reinterpreting the past like this is what has long allowed us to pretend that civil liberties are the lifeblood of English democracy: all those valiant suffragettes, impressive hunger-marchers, defiant workers fighting for their basic rights, and so on. My initial thought, then, was to force my audience to get a grip, to see that the present was no worse than the past had been, that we are not “becoming the

police state” that many feared but rather repeating old cycles of civil libertarian oppression that would be followed by – if we held our nerve – the good guys winning. Preparing the lectures changed my mind.

When it comes to the freedom to protest, things are worse today than they ever were at any point in our democratic past. A [succession](#) of [public order laws](#) has poured from Westminster in recent years and these have made protest increasingly difficult, not just old-fashioned stuff like marching and meeting but new-fangled ways of drawing attention to your cause as well (“slow marching”; “locking-on”; even just being “noisy” in the wrong places; and much else). I knew that elected parliamentarians of both parties have never liked protestors as in their bones they think the best, indeed the only right thing to do when you want to create change is to stand for parliament as they have all successfully done. But the current antagonism has been [outlandish](#) in its reach: it is as though overwhelmed by the scale of the problems they face, MPs have decided that it is easier to hound that [pro-EU bloke](#) who greets them with some music on the way in, or some other single protestor who sits across the road reminding them, day in, day out, that in his view they have let the country down badly. As the power of our sovereign parliament shrinks before our eyes in the impoverished country that Brexit Britain has become, so “taking back control” ends up reduced to being the ability to bully into subjection those citizens who protest in the hope of changing the country for the better.

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Three aspects to the current on-going effort to criminalise effective protest make things worse than in the past.

First it is very unlikely that any new Labour administration will roll back the powers accumulated at the centre of government. Labour has not been overly protective of civil liberties since the days of George Lansbury in the 1930s and (briefly) Jeremy Corbyn a few years ago. Neither had any electoral success. The leader who did, [Tony Blair](#), adopted all previous Tory laws on protest and added many of his own. Keir Starmer is likely to follow this path, more aware than even Blair was that in Britain’s flawed democratic system coercion pays electoral dividends.

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down have sought to pressurise senior police officers to act to ban protest where they have no legal authority to do so and/or to be more aggressive in their policing where such protest does take place.

Second, while it is true the police have historically never been (to put it at its mildest) exactly sensitive to the necessity of accommodating protest, they have usually been mindful of their obligation to obey the law, or at very least the risk of not doing so. In recent years a succession of [government ministers](#) from the [Prime Minister](#) down have sought to pressurise senior police officers to act to ban protest where they have no legal authority to do so and/or to be more aggressive in their policing where such protest does take place. I think no such overt effort to interfere with the operational independence of the police has ever occurred here since democracy took root in Britain in the first quarter of the last century. Weirdly aggressive ministers who in past administrations would never have escaped the ranks of junior ministers (if they made it that far) now don the constable's helmet and yell from the sidelines for more, not less police violence. The police are confused as to which to follow, authority or the law.

Third, there is the recent altogether closer association that has been fostered between corporate power and the police. Much contemporary protest on climate change and its effects has been focused not on governmental but rather on those large private companies that benefit so hugely from expediting the destruction of our planet. They pollute in this way, perfectly lawfully of course, but lawful too should be the peaceful means of protest designed to draw their conduct to the wider public. Lawful too should be the peaceful efforts to slow down their polluting endeavours. Increasingly the police work with private power to make such protest impossible, agreeing how to police the environmentalists so as to reduce their effect.

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What can be done? There are still bulwarks in place defending the rights of protestors. Some juries at least have been willing to treat protestors with respect and acquit where the state has been baying for punishment. Now and again judges take the rule of law seriously (much more so than in the past) and rule against abuses of executive power. Smart phones make police brutality much harder than in the past, and social media has helped dilute the homogenising force of the right-wing press. Business boycotts by individuals are hard to defeat as the government has not yet got the capacity or the will

to force us to buy products produced by exploitation or illegal occupation.

We still need, though, to be even smarter than ever before if we are to work out new ways of enjoying the solidarity that follows from a mass action against oppressive action by the state and its corporate partners, ways that do not end up with many of us in jail. In the old, pre-democratic days, it was a riot that power truly feared. Even as recently as the late 1980s, it was the anti-poll tax disturbances that helped bring the Thatcher premiership to an end. But difficult though it is, such violence needs to be very carefully focused if it is to succeed, and – let's face it – the essence of a riot is its uncontainability.

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