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Policing protest: An authoritarian consensus

Joanna Gilmore describes a shift towards an increasingly authoritarian style of protest policing in Britain.

In July 2010 the Crown Prosecution Service announced that there would be no criminal charges brought against the police officer alleged to have caused the death of 47 year-old newspaper vendor Ian Tomlinson at the G20 protests in London (Dodd and Lewis, 2010). This long-awaited decision followed the publication of a plethora of official reports unanimous in the conclusion that a lack of advance communication between the police and protest organisers was a central justification for the repressive methods used to police these events. Drawing a critical distinction between 'organised declared' and 'non-declared' protests, the Chief Inspector of the Constabulary concluded, 'Protest will be inherently more difficult to plan and facilitate where there is no constructive dialogue between the police and protesters. This may result in the use of police tactics which are more restrictive than would otherwise be the case' (O'Connor, 2009).

From this perspective, Tomlinson's death was not the consequence of any systematic abuses; it did not result from operational policing strategies, but from a lack of advance dialogue between police and protesters. The official response to the crisis in legitimacy surrounding protest policing reflects what has been identified in a number of recent academic studies as a move towards a 'negotiated management' style of protest policing, favouring 'cooperation and communication between police and protestors' in

order to 'reduce the likelihood of violence' (Gorringer and Rosie, 2008; Della Porta and Reiter, 1998; Waddington and King, 2005). According to this analysis, protest policing is becoming increasingly open and democratic, with the police actively seeking to de-escalate potentially confrontational situations through consensually negotiated solutions.

What this approach fails to recognise, however, is that events such as those witnessed at the G20 protests reflect an increasingly authoritarian style of protest policing. Largely ignored in the official reports despite occurring only three months prior to the G20 protests were a series of demonstrations in response to the Israeli state's devastating military assault on the Gaza Strip. Despite being 'organised' and 'declared', according to the typology idealised in the Chief Inspector's report, the police responded to these protests with violence on a scale that had not been seen in the UK for over a decade. At a demonstration in London on 3 January 2009 a group of around 3,000 protesters were diverted into an underpass near Hyde Park and subject to violent baton charges by police. Protesters and journalists attending the demonstration were stopped and searched under the Terrorism Act

2000 and 20 people were arrested. The following week, during what was to become the largest demonstration in support of the Palestinian people in British history, thousands of protesters were detained in sub-zero temperatures in police cordons outside the Israeli Embassy, eventually to be released on the condition that they provide their name, address, date of birth, and have their photograph taken. Immediately following the protests, the police launched the largest manhunt arising from a political demonstration in over a decade. Echoing the police response to the Bradford disturbances of 2001, images of 'wanted' protesters were printed in local and national newspapers and in the months that followed, a total of 119 people were arrested in a series of aggressive 'dawn raids' (FOI, 2010).

The vast majority of those arrested and charged were from Muslim backgrounds. Many of those interviewed at the police station did so without a solicitor present and

were questioned on their political and religious beliefs. Seventy-eight of those arrested were charged with offences, 65 with at least one count of 'Violent Disorder', an offence under the Public Order Act

1986 carrying a maximum sentence of five years imprisonment. Sixty-seven per cent of those charged were aged 21 or under at the time of the demonstrations and all but four were male. The majority had no previous

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An elderly man is confronted by police outside the Israeli Embassy.
© Angelos Rallis

convictions and were attending their first political demonstration. During the first hearings in the magistrates' court, the district judge concluded that the cases had an 'international element' (a term with no legal meaning), and imposed bail conditions requiring protesters to surrender passports and not apply for travel documents without the leave of the Court. Although most were British citizens, protesters were indiscriminately served with immigration notices stating that they could be deported depending on the outcome of the criminal proceedings.

The majority of those charged appeared individually and were represented by separate lawyers, many of whom had advised their clients to plead guilty and expect non-custodial sentences. Relying on the precedent set in the Bradford cases and acting against the recommendations of the Pre-Sentence Reports, the courts decided to pass 'deterrent sentences' and at the time of writing, 53 people have been convicted and 29 people sent to prison for between two months and two and a half years. The

minority of protesters that have been supported by their briefs to challenge the evidence against them have been remarkably successful. At the time of writing, a staggering 14 out of the 16 cases where not guilty pleas have been maintained have resulted in acquittal.

In passing sentence, the courts relied almost exclusively on the carefully edited CCTV and Forward Intelligence Team surveillance footage presented by the police. When lawyers were eventually granted access to footage relevant to their client's case, they were required to give an undertaking that they would not disclose any of the footage to anyone other than their client. The reason for this guarded approach soon became clear: in March 2010 a protester was acquitted after previously undisclosed police footage was uncovered by his solicitor which showed him beaten to the ground by police in an unprovoked attack.

Despite the severity of the 33 official complaints about the policing of the demonstrations, including that of a 79-year old veteran peace

activist who was knocked unconscious by police while attempting to deliver a letter to the Israeli Embassy, none have been fully investigated by the Independent Police Complaints Commission and all of those referred back to the Metropolitan Police for local investigation were subsequently dismissed (FOI, 2009). At least two of the most serious complaints were dismissed after the officer who assaulted the protester could not be identified as they had deliberately concealed their ID number. In July 2010, the Metropolitan Police agreed an out of court settlement of £25,000 with two brothers struck on the head by police truncheons outside the Israeli Embassy on the 3 January 2009. Despite an admission from the Metropolitan Police of unjustified use of force, no police officer has faced criminal charges, or even disciplinary action, as a result of their behaviour at the Gaza demonstrations.

In contrast to the presumed consensual approach to protest policing underpinning the official response and reflected in much of



Police intelligence gatherers film protesters outside the Israeli Embassy. Protesters and journalists attempting to record police officers were stopped and searched under counter-terrorism legislation.

the academic literature, the relationship between the police and protest groups is based upon grossly unequal power. They do not stand before the law as equals. Whilst those who engage in protest activity are subject to increasing criminalisation, the police in public order situations act with relative legal impunity. This disparity has intensified in recent years by a rapid expansion in the scope of coercive laws used to regulate protest. The Public Order Act 1986, enacted in the wake of fierce industrial disputes and inner-city protest, introduced for the first time a national requirement to give advance notice to the police of most public processions. The notification requirement was extended by the Serious Organised Crime and Police Act 2005 to include any static assembly taking place within a 'designated area' around Parliament. The proposed Northern Ireland Public Assemblies Bill seeks to further the requirement to provide 37 days notice of any 'public assembly', 'parade', or 'protest', specifying the date, time, and duration, as well as identifying any 'categories of person (including participating groups) expected to attend'. In contrast, there remains no legal requirement on the police to inform protesters of the details of their planned public order policing operation.

In addition to these specific public order policing powers, a number of discretionary laws justified at their introduction as dealing with very different forms of behaviour have gradually come to be applied as a mechanism to restrict political protest and to extend significantly the extraordinary level of discretionary powers conferred to the police in public order situations.

At the same time, there has been a significant expansion of the operational capabilities of the police to regulate political activity. In 2004 the National Coordinator for Domestic Extremism (NCDE) was established to oversee the work of key public order policing units. The NCDE is staffed by over 100 serving police officers and police staff and has an annual budget of around £9m

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and is accountable to the Association of Chief Police Officers (ACPO) Commissioner for Terrorism and Allied Matters. For 'security reasons', ACPO do not release the names of those working for the NCDE or the location of the subsidiary units. ACPO define 'domestic extremism' as acts of 'crime and public disorder' committed by groups and individuals whose purpose falls within one of the broad categories of 'animal rights', 'extreme right wing', 'extreme left wing', 'environmental', or 'emerging trends'. Unlike the list of proscribed organisations published by the Home Office under the Terrorism Act 2000, ACPO do not publish the identity of any of the groups or individuals listed as an 'operational priority' for the NCDE and as a private limited company, ACPO is exempt from Freedom of Information Act requests. The NCDE thus operates as an entirely secretive and completely unaccountable policing unit with unprecedented powers to monitor and suppress political activity.

The rhetoric of 'communication', 'negotiation', and 'dialogue' implies a degree of equilibrium between the police and protesters. Any detailed analysis of the way in which protest policing operates in practice, however, suggests that this official response conceals a significant power imbalance between the two groups. Yet, despite clear evidence of

increasingly authoritarian policing tactics, much recent academic work appears to accept uncritically the idea that the police are moving towards a more consensual style of protest policing. Protestors who took part in the Gaza demonstrations are serving prison sentences totalling over 40 years, despite none of those convicted are alleged to have caused any direct injury to a police officer. The government's coalition agreement puts 'The restoration of rights to non-violent protest' at the centre of its civil liberties promises. In the face of growing industrial unrest, inner-city disturbance, and mass public protest, and with a police complaints system that is not fit for purpose, it remains to be seen just how far this pledge will play out in practice. ■

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