

## EXCESSIVE FORCE, COERCIVE POLICING AND CRIMINALISATION OF DISSENT. REPRESSING YOUNG PEOPLE'S PROTEST IN TWENTY-FIRST CENTURY BRITAIN

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## FUERZA EXCESIVA, VIGILANCIA POLICIAL COERCITIVA Y CRIMINALIZACIÓN DE LA DISIDENCIA. REPRIMIR LA PROTESTA DE LOS JÓVENES EN LA GRAN BRETAÑA DEL SIGLO XXI

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### ABSTRACT

Youth-led protest actions and protests with young people as key protagonists have increased and become more diverse. This article constitutes a detailed case study of evolutions in policing and the legislative framework pertaining to protests and young protesters in Britain, drawing on political sociology, political science, criminology and youth studies. The article first outlines the main protest actions involving young people in twenty-first century Britain. Next, it documents developments in policing tools and methods. It then explains changes to the legislative framework. I argue that through military-style policing tools and methods, combined with authoritarian laws, successive British governments have developed coercive policing, the monitoring of protesters and the criminalisation of dissent. This runs counter to official discourse claiming there has been a return to policing by consent with greater attention to human rights and dialogue following criticisms from various official bodies. Thus, in reality, an ostensibly liberal democratic state is wielding excessive force and coercion, as part of a securitisation process, in a bid to regulate and repress young citizens' protest actions construed as a disruptive threat to the political status quo. In this way, young citizens are being deprived of their democratic and human right to peaceful protest with important implications for Britain and elsewhere.

### RESUMEN

Las acciones de protesta organizadas por los jóvenes, y en las que estos son protagonistas clave, son cada vez más numerosas y diversas. Este artículo constituye un estudio de caso detallado de la evolución de los métodos y los medios utilizados por la policía, y del marco legislativo relativo a estas protestas y a los jóvenes manifestantes en Gran Bretaña, basado en la sociología política, las ciencias políticas, la criminología y los estudios sobre la juventud. En primer lugar, el artículo describe las principales acciones de protesta en las que participaron los jóvenes de la Gran Bretaña del siglo XXI. A continuación, documenta la evolución de los instrumentos y métodos policiales. A continuación se explican los cambios en el marco legislativo. En este artículo afirmo que, a través de herramientas y métodos policiales de tipo militar, combinados con leyes autoritarias, los sucesivos gobiernos británicos han desarrollado una policía coercitiva, la vigilancia de los manifestantes y la criminalización de la disidencia. Esto va en contra del discurso oficial que afirma que ha habido un retorno a la actividad policial por consentimiento con mayor respeto de los derechos humanos y al diálogo tras las críticas de varios organismos oficiales. Así, en realidad, un Estado democrático ostensiblemente liberal está ejerciendo una fuerza y una coerción excesivas, como parte de un proceso de securización, en un intento de regular y reprimir las acciones de protesta de los jóvenes ciudadanos, interpretadas como una amenaza perturbadora para el *statu quo* político. De este modo, se está privando a los jóvenes ciudadanos de su derecho democrático y humano a protestar pacíficamente, con importantes implicaciones para Gran Bretaña y otros países.

### KEYWORDS

Britain; Policing; Protest; Repression; Young People.

### PALABRAS CLAVE

Gran Bretaña; Juventud; Policía; Protesta; Represión.

## INTRODUCTION

Young people in Britain have been particularly affected by neoliberalism, the fallout of the 2007-2008 global financial crisis and the resulting austerity measures introduced by the right-wing Conservative Party. Significant cuts to governmental spending have had a substantial impact on many aspects of young people's lives, including youth services, secondary education, further and higher education, indebtedness, employment, housing, mental health services and, more widely, public services. This is the first generation of young people who can expect their living standards and quality of life to be worse than those of their parents through exposure to political, constitutional and environmental crises that are resulting in the promises and expectations for a better future not being fulfilled (Pickard and Bessant 2017). Furthermore, the probable withdrawal of Britain from the European Union – 'Brexit' – will have a disproportionately detrimental effect on young people compared to older citizens (Henn and Sloam 2018). Young citizens in Britain are not alone in bearing the brunt of austerity, precarity, social injustices and environmental degradation; they form part of a global phenomenon: a new young precarious generation (Bessant, Farthing and Watts 2017), whose life chances and hopes tend to be sidelined by politicians. At the same time, a growing proportion of young people are entering post-secondary education and have greater access to digital technologies within an increasingly globalised world, which together afford them various types of agency to contest perceived injustices.

Young citizens as school pupils, students and (potential) workers have been active participants in protest actions in Britain about various issues. Some protests have been centred on the notion of social justice, based on opposition to neoliberalism and austerity, in relation to hikes in university tuition fees, cuts to public services, corporate tax avoidance, social inequalities, economic injustices, as well as US President Donald Trump's visits to London and Brexit. The other prominent focus of protest actions has been environmental issues, notably fracking (shale extraction) and airport expansions. Moreover, environmental awareness and youth-led activism focusing on global warming and political inertia on the issue was bolstered at the end of 2018 and early 2019 by the ongoing protest actions of Swedish school pupil Greta Thunberg and the environmentalist network Extinction Rebellion among others. In the UK and around the world, young people are calling on politicians and businesses to act.

Protests in Britain about youth-specific and other issues – of a much wider scope – represent an increase in dissent initiated and supported by young people in particular (Datablog 2011, Pickard 2019a).

They are part of an early twenty-first century global wave of protest (Barker 2008), resulting in a series of youth-led protests around the world (della Porta 2014, 2015; Grasso 2017). This cycle of dissent (Tarrow 1989) is characterised by a circulation of concerns, protest strategies, structures and actions (Pickard and Bessant 2018). Significantly, the repertoire of protest action is expanding, as witnessed by a growing number of creative and disruptive forms of dissent that operate beyond hierarchical protest structures and traditional street demonstrations.

In Britain, online and offline dissent has taken diverse forms, from e-petitions and non-violent direct action (NVDA) to civil disobedience and criminal damage. In spite of the overwhelmingly peaceful, democratic and legal nature of the vast majority of the protests and the institutional political discourse on the importance of respecting human rights and 'policing by consent,' young dissenters in Britain have encountered increasing levels of military-style policing tools and methods, combined with an expanding authoritarian legislative framework emanating from successive governments.

Important changes to policing have been centred on its militarisation through the acquisition of military weapons (Tasers, CS gas, water cannon), the containment (kettling) of protesters for extended periods, the collection and storage of audio-visual material and DNA information on searchable databases and the generalised monitoring of protesters, mass arrests and pre-emptive detentions, as well as police warnings about the potential dangers for young people getting involved in protesting. Changes to laws have involved the introduction of extensive legislation pertaining to the regulation of protest and the adaptation of existing statutes, including anti-terrorism laws leading to the criminalisation of dissent (Pickard 2018a, 2018b).

In twenty-first century Britain, these changes to policing tools and methods, combined with changes to legislation, have resulted in a shift away from 'policing by consent' and the use of 'reasonable force,' towards 'policing by coercion' and the use of 'excessive force.' In other words, there has been both a move away from policing involving legitimacy, trust, compliance and common consent, and a move towards more policing involving force, power, fear and breaches of trust. This goes against the British tradition of policing by consent that dates back to the 'General Instructions' issued to all new police officers from 1829 onwards, known as the 'Peelian Principles' after Robert Peel who introduced them upon the establishment of the London Metropolitan Police. These are based on nine 'policing principles' and three core ideas, whose spirit can be best summed up by their definition of the role of the police as that of preventing crime and not catching criminals, and highlighting that the key to preventing

crime is to earn public support and trust by respecting community principles (see LEAP 2019; Home Office 2012), as opposed to wielding the power of the State.<sup>1</sup> For Reith (1956: 14), such a philosophy of policing is “unique in history and throughout the world because it derived not from fear but almost exclusively from public co-operation with the police, induced by them designedly by behaviour which secures and maintains for them the approval, respect and affection of the public.”

This article constitutes a case study of developments in policing and legislation in early twenty-first century Britain pertaining to protest actions that have largely been youth-led and youth-supported. It sets current policing methods and the legislative framework within historical and political contexts. Thus, this article aims to provide detailed and up-to-date information on the shift towards the regulation of young people's dissent, set against the background of the side-lining of young citizens' voices and political participation more widely. I proffer that despite changes carried out to policing following recommendations made by Her Majesty's Police Inspectorate (2009a, 2009b), the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association (UN 2013, 2017) and the Independent Police Complaints Commission (IPCC) (2015), policing methods and tools are increasingly coercive and involve excessive force that is sanctioned and facilitated by the State via the deliberately repressive legislative framework aimed at regulating and repressing young people's protest actions.

Indeed, successive governments in Britain have used 'exceptional' measures to regulate protests and they justify these measures in the name of maintaining or establishing public safety, public order and security, as part of a process of securisation. I argue this is carried out by increasingly authoritarian governments in a bid to stifle and repress youthful dissent and quieten young people's voices. This is because, on the one hand, young people's views are often derided and dismissed, and on the other hand, their dissent is considered illegitimate and a disruptive threat to the political status quo. These representations are often upheld by the mainstream media that emphasises the negative labelling of young people in general, and especially young people's political participation, regardless of its form.

The article first outlines the main youth-led protest actions of young people in twenty-first century Britain. Next, it documents developments in State mechanisms to repress dissent via the militarisation of policing tools and methods. This is followed by a synopsis of the legislative framework regarding protests and repressive changes. The conclusion points to some concerns regarding evolutions in the policing and governance of young people's protest actions.

## YOUNG PEOPLE'S POLITICAL PARTICIPATION AND PUBLIC ORDER

The term 'Millennial' is being used increasingly in a pejorative way to label contemporary young people and make vast generalisations about them (for discussion, see Pickard 2019a). Numerous negative characteristics and labels are attributed to young citizens (Pickard 2014a), including in relation to their political participation. Through 'crisis narratives' (O'Toole 2016) in the mainstream media and certain sections of academia, young people are often portrayed as a threat to democracy, as well as to social and public order due to their electoral behaviour and their protest actions.

First, young people are often portrayed as being politically apathetic or apolitical (for a summary, see Stoker 2006; Hay 2007). This label stems from the fact that 18 to 24-year-olds tend to have lower turnout rates in elections than older generations. In Britain, the electoral participation rate of this age bracket fell symbolically below 50 per cent in the 2001 General Election and dropped even lower in the 2005 General Election. With less than half of young people voting to elect Members of Parliament (MPs) sitting in the House of Commons, there was a perceived democratic deficit (Pickard 2005). In this way, young people are portrayed as a threat to the future of democracy and social order. It is also said to be the cause of the delegitimisation of elected political institutions that is set to increase through generational replacement, as successive generations never get into the habit of voting. Yet political parties and politicians tend to ignore young people during election campaigns – 'the youth vote' – in favour of the 'grey vote' because older members of the electorate have higher electoral participation rates and they are more numerous in an ageing population. Being sidelined or overlooked by politicians during election campaigns and adversely affected by neoliberalism and austerity measures leads many young people to feel alienated from formal politics, while still being interested in political issues as "engaged sceptics" (Henn and Foard 2012), bringing about a further withdrawal from electoral participation. Generational labels result in all young people being portrayed as a threat to social order and deviant; they are all 'tarred with the same brush' and are reported to be the opposite of dutiful citizens and "good citizens" (Dalton 2015) who vote and participate in maintaining the political institutional status quo. This is part of the ongoing representation of 'youth as a problem' and 'youth as threat for the future' narrative that does not call into question why so many young people abstain, and fails to acknowledge the crucial responsibility of politicians in dissuading young people from voting and bringing about dissent that is then criminalised.

Next, for a growing number of young people, their political participation is expressed through ways that function outside electoral politics. It is argued that the decline in electoral participation among young people has created “a political space for citizen involvement in a range of other mechanisms” (Joyce 2016: 1), including protest activities. Increasingly distrustful of politicians but politically engaged, young people are regenerating political participation (Pickard and Bessant 2017) via “everyday” politics (Bang 2005), lifestyle politics (Bennett 1998, Giddens 1991), “subpolitics” (Beck 1999) and “personalised politics” (Lichterhan 1996), as “standby citizens” (Amnå and Ekman 2014). This is what I call “Do-It-Ourselves (DIO)” politics (Pickard 2019a), i.e. individual and collective personalised political participation usually associated with post-materialist values (Inglehart 1990) but also materialist concerns due to precarity. It is often mediated via digital technologies and horizontal networks outside elected political institutions. As these alternative forms of political participation bypass electoral politics, once again young people are viewed by certain commentators (journalists, politicians and policing authorities) as a threat to democracy, as well as to public and social order because they do not maintain or reinforce the political status quo. This is especially the case in relation to protest actions that are increasingly being expressed through various forms of DIO politics on a global scale, notably by young citizens within horizontal networks striving for internal democracy. Indeed, there have been numerous protests in Britain in the twenty-first century that have been youth-led and/or supported primarily by young people.

Youth-led and youth-supported protest increased in Britain when Tony Blair was Prime Minister (1997–2007). Three important protest campaigns took place. First, the Stop the War Coalition (StWC) march against the military invasion of Iraq in 2003 was the biggest demonstration ever to occur in London to date, bringing together one million protesters (Bloom 2012). Second, an anti-G20 Summit protest centred on concerns about the finance and banking sectors, economic policies and climate change (Monbiot 2009) happened in London in April 2009. Third, the 2009 annual Camp for Climate Action (Climate Camp) against industries and governmental policies that damage the environment was set up in the capital. These three protests about peace, social justice and the environment involved many young people; they were not about youth policy or specific youth matters, which underlines that young people are not uniquely concerned with youth-centred issues.

After ten years of Labour Governments, the Conservative Party – Liberal Democrat coalition government entered office in May 2010 led by Prime Minister, David Cameron. It brought about an acceleration

in young people’s protest activism. The Chancellor of the Exchequer rapidly started to introduce austerity measures, including substantial cuts to public funding of higher education, plans to treble annual university tuition fees and the intention to scrap the Educational Maintenance Allowance (a grant for 16 to 19-year-old students from disadvantaged backgrounds in further education). These three measures would particularly affect most young people in school, in higher education and in work (bar those from the most privileged backgrounds), reflecting the often dismissive attitude among certain politicians regarding young people’s lives and futures.

A series of protest days of action were organised centred on marches around the country at the time when the policy changes were being debated in Parliament (for details and discussion, see Pickard 2014b, 2014c; Olcese and Saunders 2014). The first and largest day of action took place on 10 November 2010, when approximately 50,000 protesters marched in the capital and thousands of others around the country. Dozens of university buildings were occupied for weeks, acting as important “organizing centres for the movement” (Casserly 2011: 72). These student protests formed part of a global cycle of student protests (Brooks 2016; Cini 2018; Bessant et al 2020).

Numerous horizontal activist networks and protest groups in favour of direct action participated in the organisation of further protest actions. These included the Education Activist Network (EAN) and the National Campaign Against Fees and Cuts (NCAFC), the Campaign for Free Education, the Stop the Fees Campaign and the Coalition of Resistance. It is also of note that UK Uncut was launched in October 2010 as a protest network primarily against corporate tax avoidance and governmental cuts to public spending, and in October 2011, Occupy London started to camp outside Saint Paul’s Cathedral next to the London Stock Exchange calling for “real global democracy” (Gitlin 2012).

Furthermore, over two years after the June 2016 referendum on Britain leaving the European Union, there was a significant demonstration in London and other smaller events around the country, in favour of holding a ‘People’s Vote’ to have a ‘final say’ on the ‘Brexit’ deal. Nearly three quarters of a million people marched in London on 20 October 2018, according to estimates. The demonstration was started by the Mayor of London, Sadiq Khan, who commented that young people’s “future is on the line”; standing with him at the head of the demonstration were “some 1,000 young activists [who] led the so-called ‘March for the Future’ from Park Lane towards a rally in Parliament Square” (Agerholm and Baynes 2018). Another very sizeable demonstration, involving an estimated one million people, took place on 23 March 2019 demanding a further referendum on whether the United

Kingdom should leave the European Union, bearing in mind young people voted massively to 'remain' in the 2016 referendum.<sup>2</sup>

Finally, there have been ongoing environmental campaigns, such as Plane Stupid founded in 2005 contesting airport expansions and continuing anti-fracking campaigns against shale gas extraction around the country (see Pickard 2019b). Most significantly, towards the end of 2018, significant numbers of young people, especially school pupils became actively involved in the global wave of protest against climate change and institutional inertia on environmental degradation, spurred by the Swedish school pupil Greta Thunberg (#climatestrike, #FridaysForFuture) and then the environmental activist network Extinction Rebellion with its youth section XRYouth.

The vast majority of the protests that have occurred in the twenty-first century involving various forms of direct action have been peaceful. However, young protesters expressing their democratic right to peaceful protest have been met with an increasingly military-style of protest policing, as the next section explores.

## THE MILITARISATION OF PROTEST POLICING: TOOLS AND METHODS

Despite recommendations from official bodies, as well as political and policing rhetoric, there has been a shift away from the tradition of 'policing by consent,' 'negotiated management' and 'reasonable force' in various protest situations, and a shift towards policing by coercion and the use of excessive force that is wielded on young people as organisers and participants in the main protest actions in Britain during the twenty-first century. This section shows that there have been important developments in policing tactics and policing tools made available for "protest policing" (della Porta and Reiter 1998; della Porta 2013).

Policing responses to the increase in youth-protest actions in Britain indicate an escalation of oppressive and militaristic forms of policing. These are threefold: (1) tools and methods available to police officers, (2) surveillance and monitoring of protesters combined with the storage of information on searchable data bases, (3) criminal law practises, such as pre-emptive arrests, mass arrests, extended detention and conditional bail.

Most of these policing methods were used at the anti-G20 Summit protest in London, in April 2009. The peaceful Climate Camp protest was cordoned off by police officers in riot gear and evacuated by force with the use of police shields. Police Officers' notebooks used as evidence in court proceedings attest that they deliberately punched and hit protesters in the face, and struck them with the flat and angled sides of riot shields (Townsend 2009).

Following the policing tactics deployed in the 2009 anti-G20 Summit, many official reports were written, including two by the statutory body that inspects police forces: Her Majesty's Inspectorate of Constabulary (HMIC 2009a, 2009b).<sup>3</sup> Immediate recommendations were stipulated, including that the police should: (1) facilitate peaceful protest, (2) improve dialogue with protest groups where possible, (3) improve communication with the public, (4) moderate the impact of containment when used, (5) improve training to equip officers to deal with the full spectrum of protest activity; and (6) wear clear identification at all times. The HMIC report also recommended that national guidance on the policing of protest needed overhauling by the Association of Chief Police Officers (ACPO). In the two reports, the HMIC made it clear that the policing of public order events must be lawful, consensual and legal, not provocative and aggressive (Bloom 2012: 3).

However, these official recommendations have not always been followed by individual 'rogue' police officers and police forces in general, especially the London Metropolitan Police Service. On the contrary, the militarisation of policing tools and methods are clear proof of a more confrontational and coercive approach to the policing of protests.

### The militarisation of policing tools and methods

The procurement and use of military-style weapons by the police in the context of public protest in Britain has increased in recent years. Following pilot schemes around the country, a majority of police forces started using Tasers in 2009, and they are authorised to do so in protest situations. Tasers are 'conducted electrical weapons' or 'electro-shock weapons' that fire electrically charged probes, in order to incapacitate the 'target.' A more powerful version 'Taser X2' was authorised for use by police in England and Wales by the Conservative Home Secretary, in March 2017. CS spray (also called tear gas or pepper spray) is also available for police use in public order contexts.

Other weapons, hitherto not available in mainland Britain, have been procured by police forces for public order purposes.<sup>4</sup> The Association of Chief Police Officers (ACPO) stated in a briefing paper in January 2014 that they expected water cannon to be required because "ongoing and potential future austerity measures are likely to lead to continued protest" (ACPO 2014). Afterwards, a spokesperson from the Home Office commented: "We are keen to ensure forces have the tools and powers they need to maintain order on our streets. We are currently providing advice to the police on the authorisation process as they build the case for the use of water cannon" (Travis 2014). Boris Johnson, Conservative Mayor of London at the time, approved the purchase of three second-hand water cannon from Germany for public order

management in the capital (PCC 2014). When challenged about the potential dangers, the politician replied, “they are not military weapons. They would not be much use in warfare and I’m not aware of any regiment that deploys water cannon. [...] The police already have access to much more violent means of crowd control. If you look at a baton round, it’s no joke if you get that in the eye” (Barrett 2014). Indeed, further militarisation of policing has been the authorisation of the deployment of attenuating energy projectiles (AEP) (sometimes called rubber bullets, plastic bullets or baton rounds) by police firearms teams in London. Crucially, permissions to use them were issued just prior to planned student demonstrations against the increase of annual university tuition fees held in November 2011 (Wilson 2011; Milmo 2012).

Neither water cannon nor AEP have been used by the police on protesters in mainland Britain. But their procurement and authorisation by elected politicians are marked illustrations (in a country where police are traditionally unarmed) of the increasing militarisation of policing methods and attempts to repress youth-led protest, the main form of dissent in recent years.

Change in protest policing has also involved attempting to overtly deter young people from exercising their democratic right to peaceful protest via police warnings; for example, Commander Broadhurst from the Metropolitan Police Service (MPS) issued the following statement on 29 November 2010, prior to a student-led protest, on the dangers of protesting for young people:

Schoolchildren have as much right as anyone else to protest, but young people are more vulnerable and likely to be injured if violence breaks out. We would ask parents to talk to their children and make sure they’re aware of the potential dangers, as there is only so much police officers can do once they are in a crowd of thousands (BBC 2010).

Beyond the expansion of the repertoire of weapons made available to the police for use in protest situations and attempts to produce a “chilling effect,” there has also been the increasing recourse to the police tactic called ‘containment’ or ‘kettling.’ Police officers contain a group of people (protesters, bystanders, observers) in a designated area (a public square, a road or a bridge), i.e. a kettle, by surrounding them with a police cordon or by blocking them into a confined area. It allows the police to restrict the movement of those inside, in order to control their movement ostensibly for the purpose of reducing potential disorder.

Containment is problematic for several ideological and humanitarian rights reasons, especially when young people are involved, as has been the case in Britain. Those contained are detained and deprived of their freedom of movement, sometimes for hours, without having committed or being suspected of having committed any criminal activity. Contain-

ment is indiscriminate (bystanders and peaceful protesters are contained) and therefore it has been described as ‘collective punishment’ in breach of the Geneva Conventions, 1949 and *de facto* open air imprisonment without a trial in violation of the *European Convention on Human Rights* (Article 5): the right to liberty and security. Containment can also be considered inhumane due to access to food, water and toilets being withheld for several hours. Containment can also be frightening and dangerous, for example, when it lasted several hours and into the night, as it did on London Bridge during the 2010 student protests (Pickard 2014b). For all these reasons, containment is not a consensual form of policing and it inevitably creates unnecessary fear and hostility towards the police.

Moreover, release from a kettle is made contingent on the provision to police officers of information with intimidating threats of fines and arrest for non-compliance, even though such requests are not officially permitted (Swain 2013). In this way, containment is also used in order to monitor and harvest personal information, such as biometric data (for example, names, addresses, and fingerprints via mobile digital fingerprinting devices), which is part of the surveillance and monitoring techniques used by the police, whereby protesters are viewed as ‘suspect’ and a threat to security (Coleman and McCahill 2010). This constitutes coercive policing, in a country where identity cards do not exist.<sup>5</sup>

### Police surveillance and monitoring techniques

Protesters in Britain (and elsewhere) are monitored online and offline through diverse means that have been facilitated by digital technologies. The overt and covert surveillance of protesters during marches is undertaken by different types of police officers and especially within Forward Intelligence Teams (FIT) and Evidence Gathering Teams (EGT).

During marches and rallies, Forward Intelligence Teams (FIT) observe and track participants, noting appearance, behaviour, communication, movement and associations. According to Her Majesty’s Inspectorate of Constabulary (HMIC 2009a: 127), “one of the tactics employed by FITs is to seek out persons likely to engage in disorder and follow them to monitor their actions. The purpose of this is to deprive the person of the ability to engage in disorder, due to the proximity of police officers.” These methods have been condemned for being oppressive and involving harassment of peaceful protesters (UN 2013, 2017).

Evidence Gathering Teams (EGT) overtly record, photograph and film protest participants, for the “prevention and detection of crime the maintenance of public order and the gathering of intelligence in support of such policing aims” (Derbyshire Constabulary

2018). This may involve identifying, spotting, following and monitoring particular people. Substantial concerns were also expressed about EGTs by Her Majesty's Inspectorate of Constabulary: "police use of overt photography raises significant human rights issues, notably the question of whether police action is compatible with the right to private life protected by ECHR" (HMIC 2009a: 122).

Despite demands for more consensual policing, FIT and EGT continue to operate during peaceful demonstrations in an often intimidating way. They are clearly employing methods that cannot be construed as consensual.<sup>6</sup> Peaceful protesters and bystanders not engaged in any illegal or offensive behaviour are also recorded and filmed. Moreover, the information and images are stored on searchable data bases (see below).

In a bid to foster better – more consensual – relations between the police and protesters during marches, Police Liaison Officers (PLO) were introduced in 2012 as uniformed police officers wearing light blue bibs who mingle with protesters during demonstrations and marches. Their official role is to promote dialogue and communication (see Waddington 2012; Stott et al 2013), before, during and after protest actions. This is part of an effort to encourage consensual policing and to gain trust following recommendations made by the HMIC in 2009 (see above). The role of PLOs regarding information and intelligence gathering is unclear, according to the College of Policing (2015: 17-19) and the UN special rapporteur on the rights to freedom of peaceful assembly and of association (UN 2017), among others. Activists and activist networks have argued that beyond attempting to foster dialogue and consensual policing, PLOs carry out intelligence gathering, intimidation and harassment of political activists (see Netpol 2014, DTRTP 2018), making their actions far from consensual (Jackson et al 2019).

Other surveillance tactics have included police operatives with fake identities infiltrating political groups, notably, environmental activist networks, in order to carry out covert surveillance of law-abiding protesters, disrupt protests and act as agent provocateurs by initiating, organising and encouraging civil disobedience. There have been mediated cases of undercover police officers fathering children with female activists unaware of their true identity (Evans and Lewis 2013).

Thus, in the early twenty-first century, police officers in Britain have acquired various military-style tools and methods employed especially on young protesters. The far from consensual militarisation of protest policing has been enabled by significant changes to the British legislative framework that is repressing democratic protest carried out by young people in particular, as examined in the next section.

## THE LEGISLATIVE CRIMINALISATION OF PROTEST

The Thatcher years (1979-1990) was a period of significant social and political unrest in Britain. This led the Conservative Government to enact the *Public Order Act 1986*. The statute created many public order offences and imposed various conditions on the organisers of public "processions" (i.e. moving protests or marches) and assemblies. It allows the police authorities to set various conditions, such as to change the location of a march, control its duration, limit the number of people attending, and stop a sit-down protest if it blocks a road or public walkway. The police also have the power to forbid a march by applying a banning order, or the dispersal of a public assembly if a senior police officer "has reasonable belief" that it may result in serious public disorder, serious damage or serious disruption to the life of the community. Furthermore, the statute permits the police to prohibit marches and impose specific conditions on organisers during a period of negotiation aimed at finding a consensus. However, for Waddington (1998: 120), "once negotiation begins, the aim of the police is to 'win over' the negotiator so that the demonstration is conducted as far as possible in accordance with police wishes." For example, through 'negotiation,' the National Union of Students (NUS) demonstration "Educate, Employ, Empower" on 21 November 2012 bypassed the Houses of Parliament and ended in Kennington Park, rather than the symbolic Parliament Square, much to the frustration of many protesters. According to Waddington (1998: 122), "attempts subtly to extend maximum control over protest do not cease once prior arrangements have been made." The *Public Order Act* has been "bitterly attacked as a draconian assault on civil liberties by many critics" (Reiner 1998: 46, see also Waddington 1994). The focus of criticisms is that the requirements and restrictions contained in the legislation can be interpreted as an affront to civil liberties and an infringement of the 1950 *European Convention on Human Rights* (ECHR), notably, "Freedom of expression" (Article 11) and "Freedom of assembly and association" (Article 11).

The *Public Order Act 1986* is thus the cornerstone of British legislation with regard to the control of protests. Since its enactment, new criminal justice laws have been passed, others have been amended, and existing laws drawn up ostensibly for other purposes have been applied to protests. This has been carried out by both Conservative and Labour governments in a bid to restrict and control protest actions.

Further legislation regulating and restricting protest was passed when Tony Blair was the centre-left 'New Labour' Prime Minister (1997-2007). With the enactment of the *Crime and Disorder Act 1998*, the police obtained greater powers, whereas protesters saw more restrictions placed on them. The statute

introduced the fuzzy and subjective term ‘anti-social behaviour’ (ASB), which had an even fuzzier legal definition: “conduct which caused or was likely to cause alarm, harassment, or distress.” Drawn up initially to deal with anti-social behaviour in social housing, the legislation was soon used by the police in public protest situations. This led to anxiety that the police could further reduce freedom of expression and freedom of peaceful assembly (INCLO 2013). Later, the *Anti-Social Behaviour, Crime and Policing Act 2014* enacted by the Conservative Party – Liberal Democrat coalition government further strengthened the legislative framework by consolidating, expanding and reinforcing law enforcement powers in protest situations in public spaces. Part 4, Section 58 of the statute allowed local authorities to make a preventative ‘Public spaces protection order’ (PSPO) to curtail activities in a designated public space. Part 3, Sections 34 to 42 allowed the police to create ‘Dispersal Zones’ and gave the police the pre-emptive “Dispersal Power”, that “requires a person committing or likely to commit anti-social behaviour, crime or disorder to leave an area for up to 48 hours” for the purpose of “reducing the likelihood of alarm, harassment, or distress,” as stipulated in the *Anti-Social Behaviour, Crime and Policing Act 2014*. It is significant that dispersal powers can be applied prior to a protest, which entails removing the human rights of people who have not committed an offence. They are also applied ‘on the spot’ and have been used on lawful peaceful protest situations (Netpol 2015). Crucially, non-compliance and breach of a Dispersal Order constitutes a criminal offence, resulting in a fine and/or up to three months in prison (Home Office 2017). The statute has been criticised for being “a law to stop almost anyone from doing almost anything” (Monbiot 2014) and thus leading to coercive rather than consensual policing.

A further piece of legislation pertaining to the regulation of protests that involves fuzzy terminology is the *Serious Organised Crime and Police Act (SOCPA) 2005* (Part 3, Sections 110 and 111). It permits the police to only need “reasonable grounds” to arrest someone. After an arrest, the Crown Prosecution Service decides whether the case merits being taken to court. The United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association is highly critical of these measures: “the use of pre-emptive measures – verbal warnings and arrests – by the authorities against individuals suspected of being likely to commit offences during protests is troubling” (UN 2013: 3). He continues: “I am also dismayed about very strict police bail conditions which have been imposed on protesters who have been arrested, to deter them from further exercising their rights. Such conditions may be challenged before a court, but the process is costly and can be a strain to some” (UN 2013: 3), especially to young people. Indeed, the police can use

pre-charge bail with demanding conditions, which can prevent an individual from taking part in further protest for extended periods, even though he/she has not been prosecuted, leaving the individual in a ‘legal limbo,’ so that the police has time to gather additional evidence to be able to press charges. This puts into question the fundamental British constitutional principle of ‘innocent until proven guilty.’ Moreover, pre-charge bail restrictions on someone not actually charged with any crime can include not associating with certain persons, not going to a particular area, not protesting and not leaving the country, thus infringing human rights, such a freedom of expression and movement, which once again goes against the principle of policing by consent.

A very small proportion of the young people who were arrested and subsequently put on bail after the 2010 student protests were sentenced (for data see Rawlinson 2014). Critics suggest that there was indiscriminate arrest, repressive arrest to hinder further participation in protests and deterrent arrest (and sentencing) to discourage others. Moreover, the *Serious Organised Police Crime Act (SOCPA) 2005* (Sections 132-138) placed restrictions protest in Westminster around the Houses of Parliament. These sections were repealed by the *Police Reform and Social Responsibility Act 2011*, which created further limitations on peaceful protests in Parliament Square.

Another trend in British legislation has been that statutes drawn up initially to prevent terrorism have been used to thwart, curtail or end peaceful protests. Section 44 of the *Terrorism Act 2000* authorised police to ‘stop and search’ members of the public without the need for reasonable suspicion that terrorism had occurred or was likely to take place, which is a clear example of the securitisation process. ‘Stop and search’ has been carried out in various protest situations. A peace protester and a journalist brought a case to the European Court of Human Rights (ECHR) in 2010, which ruled the police powers of ‘stop and search’ in the context of peaceful protest to be unlawful, as the police lacked sufficient safeguards to protect basic civil liberties, i.e. the right to freedom of expression and the right to freedom of peaceful assembly. Thus, indiscriminate ‘stop and search’ was deemed incompatible with the *European Convention on Human Rights*, and it also put into question the constitutional presumption of innocence. The then Home Secretary Theresa May was forced to repeal Section 44 of the *Terrorism Act 2000* and introduce a new suspicion threshold.

In addition, there has been a conflation of peaceful protest with terrorism, in part due to a very fuzzy or loose definition of ‘terrorism.’ The Occupy London movement that camped out in the capital in 2011-2012 was designated as “domestic extremism” in a counter-terrorism document from the City of London



police (Quinn 2015). The National Council for Civil Liberties, usually just called Liberty (2018), is very critical of the governmental legislation:

Much recent counter-terrorism legislation is dangerously over-broad and has affected vast numbers of people, in particular peaceful protesters and ethnic minority groups, thereby undermining civil liberties and fundamental human rights. [...].

Last, new statutory powers have been added through legislation that allows the monitoring of groups and individuals. The *Data Retention and Investigatory Powers Act* 2014 authorised State intelligence agencies, security services and law enforcement authorities to access telephone and internet records held by providers. Considered by many MPs and civil rights groups an infringement of privacy, it was ruled unlawful by the High Court in 2015. First, it was amended by the *Counter-Terrorism and Security Act* 2015, which enables “the Secretary of State to require communications service providers to retain an additional category of communications data, namely data that will allow relevant authorities to link the unique attributes of a public Internet Protocol (IP) address to the person (or device) using it at any given time.” It was then replaced by the *Investigatory Powers Act* 2016 that allows certain surveillance powers and certain safeguards to them through covert monitoring in an obviously non-consensual way.

The extensive amount of information obtained through such means and other methods is held on various searchable police data bases, including the Police National Computer (PNC) and the Police National Database (PND) to be replaced by the National Law Enforcement Data Programme (NLEDP) that will “introduce new and enhanced data sets into LEADS such as, Biometrics, Images from DVLA & Passports, ANPR and analytical tools” (Home Office 2018). Other databases comprise IDENT1 and the Crimint (criminal intelligence) database used by the London Metropolitan Police Service, as well as the National DNA Database (NDNAD), which is the biggest in the world in relation to the size of the population and the quantity of information held. At the start of 2019, there were 6.38 “subject sample profiles retained on NDNAD,” with samples of an estimated 5.49 million “individuals” classified according to gender, “ethnic appearance” and age, with 32.72% of people aged 16-24 when their information was loaded onto the database as of 2019 (Home Office 2019).<sup>7</sup> Moreover, information on people with different statuses (convicted criminals and suspected criminals, but also political campaigners and protesters) is all held in the same data bases (Lewis and Vallée 2009).

The legislative framework has thus been considerably widened and adapted regarding protests in recent years, whereby “antiterrorist laws, restrictions on individual freedoms and individual rights have been presented as necessary in order to defend de-

mocracy” (della Porta, Peterson and Reiter 2006: 5), as part of a securitisation process that particularly affects young people.

## CONCLUSIONS

This case study of Britain has noted that there is an increasing number of youth-led protests that form part of a global wave of dissent, which has been triggered by political action and inaction of successive governments on issues particularly salient to young citizens. Young people, such as school pupils, students and workers have been key protagonists in these protest actions.

At the same time, there have been significant changes to policing and legislation pertaining to protests in Britain, which have brought about the militarisation of policing and tighter regulation of protests. First, policing has changed significantly as part of a militarisation process. This has involved adjustments to: (1) tools and methods available to police officers, (2) surveillance and monitoring of protesters combined with the storage of information on searchable data bases, (3) criminal law practises, such as preemptive arrests, mass arrests, detention and conditional bail. Second, legislation has changed through additions, amendments and adaptations. Thus, there has been a marked growth in State repression of protest characterised by a distinctly punitive turn (Grasso and Bessant 2017).

Moreover, the British judicial system tends to uphold tougher policing strategies when they have been challenged in court. There have been a series of judicial cases regarding the use of “unnecessary force,” “unjustified force,” “excessive force” and coercive policing associated with the militarisation of protest situations brought against individual police officers and the London Metropolitan Police Service (MPS). These include cases regarding kettling for extended periods, containment of minors, forced dispersal of peaceful protesters by police wearing helmets and dressed in riot gear, etc. The High Court and the Court of Appeal have rejected most claims and ruled in favour of the MPS (for example, CRAE 2011).<sup>8</sup>

The police have the difficult task of striking a balance between defending civil rights and liberties, whilst upholding security in a context of increasing dissent and cuts to police funding due to austerity. For Jackson et al (2012: 10), “policing by consent is based upon the idea that the police gain voluntary approval and cooperation from the public not through aggressive control of the population, but through fostering a close social connection between the police and public.” Policing by coercion using excessive force and repression that young protesters in Britain have been experiencing is not a very constructive way to manage democratic youth-led

protests involving many young people. It impinges on trust in the police, the State and politics more widely.

The populist mainstream media tend to use hyperbolic and negative headlines about young protesters, often via pejorative generational labels, representing them as “unruly,” “threatening” and “anarchic,” or self-interested (such as “privileged” higher education students) or opportunistic (such as school pupils concerned about climate change skipping school), or naïve and ill-informed. These media representations serve to delegitimise young people’s political participation and project the image that young people’s actions are a source of “moral panic” (Cohen 1972), as part of the “crises narratives” (O’Toole 2016) produced about young people’s political participation. Such hostile media representations of young protesters provide justifications for politicians and police organisations to toughen protest policing (Wisler and Giugni 1999) and to introduce stricter legislative control of public protests and repress them, as well as to be seen doing so by the general public.

Thus, the loop is closed and the securitisation process is established. Young people are derided and demonised and their political participation considered as the disruptive source of a moral panic; young people are affected by more restrictive policing practices and statutes regarding their constitutional right to freedom of expression and the right to freedom of peaceful assembly. Together these developments have created a more authoritarian environment that is at odds with the traditional ‘policing by consent’ and human rights. They have also led to the creation of physical, electronic, legal and psychological barriers to dissent that particularly affect young people.

Despite numerous warnings and recommendations made by the House of Commons and House of Lords Joint Committee on Human Rights (JCHR 2009: 53), Her Majesty’s Police Inspectorate (2009a, 2009b), the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association (UN 2013), the Independent Police Complaints Commission (IPCC) (2015), human rights lobbies and activist networks about protest policing and the legislative framework in Britain, these remain repressive. This stands out in forthright comments made by the UN Special Rapporteur in a follow up report:

84. There is no doubt that the United Kingdom takes its role as one of the global leaders in human rights seriously. Many people around the world look to the United Kingdom as a model for democracy and respect for human rights and fundamental freedoms. They notice when the country takes positive steps to strengthen its practice in that area. However, they notice even more when it moves in the opposite direction.

85. The Special Rapporteur appreciates that the Government has made efforts to address some of the recommendations he made three years ago. However, he notes with concern that a series of separate measures by the Government, some implemented and others proposed, have negatively impacted the exercise of the rights to freedom of association and freedom of peaceful assembly and, in general, are resulting in the closing of space for civil society. In many instances, these moves have been subtle and gradual, but they are as unmistakable as they are alarming. He is concerned that, put together, these measures suggest that the Government has a negative view of civil society as a critical partner that can and should hold it accountable (UN 2017: 19).<sup>9</sup>

These developments are disquieting and have important implications regarding the governance of young people’s political participation, their human rights and democracy more widely.

This article set out the situation in the United Kingdom and documented the changing landscape of the policing of dissent and the legislative framework. I underlined how in an ostensibly liberal democratic state, successive governments through increasingly coercive policing and layers of legislation that repress protests have attempted to exert social and public order control. This is in order to dissuade and discourage protests, but also to gain greater powers to prevent them occurring and to stop them as part of a securitisation process. It is a way to stifle young people as key protagonists organising and participating in protest actions and to quash democratic youthful disruptive dissent that challenges the political status quo. Such authoritarian governance through policing and legislation is not healthy for democracy and it brings about or reinforces a lack of trust in the police as agents of the State and impinges on young people’s electoral and non-electoral political participation going forward more widely. This comes at a time when there have been big cuts to police funding and there has been a growth in the number and intensity of protest actions led and followed by young people who are increasingly disillusioned with party politics and distrust elected politicians. This does not bode well for the future of democracy and the possibility of protesting by future generations of young people who are living in increasingly precarious circumstances and are environmentally concerned. We need more qualitative research on the impact of developments in protest policing and legislation on young people and their propensity to protest, as well as their attitudes towards elected politicians, policing and civil liberties. The implications are important in so far as the United Kingdom had a long standing tradition of policing by consent (rather than coercion) and respect for human rights.

Concerns for democracy and human rights are all the more pertinent as the country leaves the European Union (‘Brexit’) and thus the Court of Justice

of the European Union (CJEU), amongst growing calls from pro-British sovereignty politicians for the *European Convention on Human Rights* enshrined in Britain's *Human Rights Act 1999* to be revoked

from its legislative framework. Young voices should be heard and taken into account rather than be monitored, controlled, regulated, repressed and criminalised.

## NOTES

1. The first principles that clearly illustrate policing by consent are as follows: (1) To prevent crime and disorder, as an alternative to their repression by military force and severity of legal punishment. (2) To recognise always that the power of the police to fulfil their functions and duties is dependent on public approval of their existence, actions and behaviour and on their ability to secure and maintain public respect. [...] (4) To recognise always that the extent to which the co-operation of the public can be secured diminishes proportionately the necessity of the use of physical force and compulsion for achieving police objectives.
2. There have also been smaller demonstrations and rallies organised by far-right networks and groups, for example, the English Defence League (EDL), once led by Tommy Robinson (real name Stephen Yaxley-Lennon, born 1982), who is now at the origin of various extreme-right wing protest actions often involving violent episodes and clashes with the police and anti-fascist groups. However, they are relatively small-scale and involve only a small proportion of young people compared to the protests about austerity, social justice and the environment.
3. In 2017, the HMIC was renamed Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS).
4. The UK consists of England, Wales, Scotland and Northern Ireland. Mainland Britain constitutes only the island of England, Wales and Scotland. During the 'Troubles' of the 1970s onwards, involving sectarian terrorism, British soldiers were deployed in Northern Ireland and they used various forms of military weapons that have not been employed elsewhere in the UK.
5. Most police forces use fingerprint scanning, whereby fingerprints are taken with a hand-held fingerprint scanner using MobileID (mobile identification) technology, which crosschecks in minutes via satellite with the tens of millions of fingerprints in the searchable finger and palm print national police database (NPD): Ident1. Police can take fingerprints with or without consent if they 'reasonably suspect' someone has committed a serious offense.
6. I have been photographed and filmed on various occasions whilst acting as an independent observer of marches and protest actions. For photos taken of police officers involved, see Pickard, 2018b.
7. Ages on load, 10-15 years: 07.99%; 16-17 years: 06.47%; 18-20 years: 12.92%; 21-24 years: 13.33%, 25-34 years: 25.08%; 35-44 years: 18.51%; 45-54 years: 10.23%; 55-64 years: 04.03%; 65+ years: 01.42% (Home Office 2019).
8. Individual police officers have been held to account, for example when using CS spray at close range on peaceful UK Uncut activists (Taylor and Paige 2011). The then Commissioner of the Metropolitan Police, Bernard Hogan-Howe, was obliged to apologise for the "unnecessary and unlawful" "excessive force" causing protesters "intense pain, momentary loss of sight, and feelings of panic and fear," and for the police preventing people from "exercising their fundamental right to protest" (Evans 2014).
9. The UN Special Rapporteur (UN 2017) restated dozens of recommendations on the "right to freedom of peaceful assembly," which underline the lack of change since his earlier report.

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