

## **Written evidence submitted by Amnesty International UK (AIUK) - part 2**

### **Summary:**

1. New Clause 53: A Statutory Right to Protest would create a specific statutory right to peaceful protest.
2. Amnesty International strongly supports this clause and urges Members to sign the amendment and to speak in its favour in Committee and if it is called at Report.

### **1. Introduction**

1.1 This is a short supplementary briefing addressing a recently tabled amendment that would add a new clause to the Crime and Policing Bill. The new clause would create a specific statutory right to peaceful protest. **Amnesty International strongly supports this clause and urges Members to sign the amendment and to speak in its favour in Committee and if it is called at Report.**

### **2. The Clause**

2.1 1.NC53, tabled by Alex Sobel MP, would create a statutory right to peaceful protest<sup>1</sup> and impose obligations on public authorities, in practice most likely the police, to respect, protect and facilitate the right to protest.<sup>2</sup> The clause then goes on to set out the circumstances in which a public authority would be entitled to interfere with the exercise of the right, and the considerations that would go into making that determination.<sup>3</sup>

2.2 In doing so the new clause reflects the binding obligations that already exist on the UK through Articles 10 and 11 of the European Convention on Human Rights.<sup>4</sup> While in isolation Articles 10 and 11 have been incorporated into domestic law through the Human Rights Act,<sup>5</sup> legislating for an express statutory right to peaceful protest would fulfil a recommendation made by the Joint Committee on Human Rights following that committee's consideration of the anti-protest measures in the Police Crime Sentencing and Courts Act 2022.<sup>6</sup>

### **3. Why the Clause is Important**

3.1 As the JCHR stated when first proposing the creation of this statutory right,

The starting position should always be that peaceful protests should not be restricted and should be facilitated so far as possible. A statutory right to protest would signal the fundamental importance of the right to protest in a democratic society.<sup>7</sup>

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<sup>1</sup> NC53 cl2(1)

<sup>2</sup> NC53 cl2(2 a, b & c)

<sup>3</sup> NC53 cl2(3)

<sup>4</sup> Article 10 protects the right to freedom of expression. Article 11 protects the right of peaceful assembly. In combination they can be interpreted as creating a right to peaceful protest

<sup>5</sup> Human Rights Act 1998 s1

<sup>6</sup> Joint Committee on Human Rights, Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill, Part 3 (Public Order), June 2021, para 128

<https://committees.parliament.uk/publications/6367/documents/69842/default/>

<sup>7</sup>

Ibid, para 125

3.2 In recent years the police have come under increasing political pressure to pursue a more restrictive and interventionist approach to the policing of peaceful protest. They have also been handed (including in the current bill) extensive, and in our view excessively broad, new powers to interfere with protests and the creation of new criminal offences connected to peaceful but disruptive protest activity.<sup>8</sup> In practice, the incentive structure for police conduct around protest created by both government and Parliament has been entirely in one direction; ever more restrictive and ever more interventionist. Yet the police, and the UK state more generally, also have an obligation not to interfere with peaceful protest unless it is necessary and proportionate to do so and to positively facilitate such protests.

3.3 In the absence of an express statutory right to peaceful protest and faced with the barrage of anti-protest legislation and rhetoric coming from the government over the last few years, it is hardly surprising that police have tended to view their role regarding protests in terms of crime detection and prevention. Yet, this is the opposite of the approach that the Convention requires, in terms of protection and facilitation of protest rights.

3.4 The new clause will not create any new burdens on the police, or limit them in lawfully exercising their powers in accordance with human right standards. It will simply clarify the obligations they should already be abiding by and send an important signal that, notwithstanding the apparently unending drift of anti-protest legislation in recent years,<sup>9</sup> Parliament respects people's fundamental rights to peaceful protest and expects the police to do the same.

#### **4. The Broader Human Rights Picture**

4.1 One final broader consideration which we would urge Members to bear in mind on this point and when legislating more generally, is the urgent need to create legislation that protects the UK's human rights framework, rather than creating new tensions with it. Examples abound in recent years of poorly drafted legislation which relies on the existence of the Human Rights Act to correct its excesses and effectively forces people to cite the HRA to defend themselves against government policy.<sup>10</sup> This in turn moves the Human Rights Act from its appropriate position as a defender of minimum standards and a backstop of last resort, into the frontline of politically contentious and acrimonious policy debates; fuelling debates such as that around the UK's continued membership of the ECHR and putting ever more pressure on the survival of the UK's human rights framework.

4.2 This is as true in the realm of protest law as it is anywhere else, where multiple new laws in recent years have been drafted with excessively broad terms that appear to inevitably result in rights violations by the police and the judicial system. However, the breadth of these laws is

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<sup>8</sup> See Part 3 of the Police Crime Sentencing and Courts Act 2022 and the whole of the Public Order Act 2023, as well as the "Serious Disruption to the Life of the Community" Regulations 2023.

<sup>9</sup> In addition to those listed in fn8, the previous government were intending to legislate for further protest restrictions in the Criminal Justice Bill 2023, which fell when the General Election was called and so did not become law. Clauses 86-91 and 101 of the current bill revive many, although not quite all, of those restrictions.

<sup>10</sup> See eg the CHIS Act 2021 which allows for human intelligence sources to be authorised to commit any crime of any severity other than if such an authorisation would be unlawful under the Human Rights Act; the Immigration Act 2014 which withdrew all appeal rights from immigration proceedings other than those required by human rights obligations; and the UK Border Act 2007 which created an 'automatic' deportation regime subject to the Human Rights Act as the only control mechanism.

routinely justified by government on the grounds that the Human Rights Act will step in to prevent the worst excesses that the laws would otherwise allow.<sup>11</sup> A statutory right of peaceful protest could fulfil that role more clearly and effectively, while in the long run protest law is in desperate need of wide-ranging reform.

**4.3 Amnesty International strongly supports this clause and urges Members to sign the amendment and to speak in its favour in Committee and if it is called at Report.**

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<sup>11</sup> See eg paragraph 228 of the government's human rights memorandum for the current bill.