

ANALYSIS:

Contemporary protest and police operational independence



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The UK Government's efforts to influence policing's operational response to protests have reached new levels in recent months, and former Home Secretary Suella Braverman's comments on the issue would appear to have prompted her sacking; but Wrexham University's Professor Peter Joyce and Dr Wendy Laverick of Hull University argue that policing independence in relation to protests has been threatened by Conservative governments for some time, and that a fundamental rethink of governance arrangements may

be the only long-term answer.

The sacking this week of Suella Braverman as Home Secretary, and the appointment of James Cleverley as her successor, may have been the culmination of a series of pronouncements and actions that Prime Minister Rishi Sunak felt was damaging to the Government's prospects of maintaining power in next year's general election.

But there's little doubt that Mrs Braverman's recent comments on the policing of protests – particularly the events around Armistice Day – brought the situation to boiling point. There is also little doubt that policing of protest has become an ongoing battle ground in recent years between the police service and Conservative governments.

The key issue has been a determination on the part of Conservative governments that the police service should deliver their political objectives and neuter the opposition of those who oppose them, frequently through the mechanism of protest.

Current governance arrangements relating to policing do not give government the power it requires to enforce their wishes regarding the regulation of protest on the police service, hence pressure has been exerted to galvanise public opinion in order to achieve this objective.

This course of action is especially spearheaded by those on the right wing of the Party who wish to shift society in a more authoritarian direction.

Political context of government-police disputes over protest

Recent Conservative governments do not like criticism, especially when this is played out in protest, whatever form it takes; the [2022 Police, Crime, Sentencing and Courts Act](#) provides firm evidence of this situation.

This legislation introduced significant restrictions on the future ability of citizens to engage in protest, even though the right to be able to do this has been regarded as the action that differentiates a liberal democracy from a more totalitarian political system.

And this measure may, if the Conservatives win the 2024 general election, be augmented by re-introducing the [discontinued Bill of Rights Bill](#) which would make it harder for people to

assert their rights.

Former Home Secretary Mrs Braverman is identified with the right wing of the Conservative Party and in recent pronouncements expressed views associated with right wing politics. These have included her claim that multiculturalism has failed and that the West faces the 'existential challenge' of uncontrolled immigration.

She further alleged that there has been an invasion of immigrants on the South Coast of England, and has argued that granting asylum to a person being subject to discrimination in his or her country for being a woman or being gay should not be sufficient grounds to qualify for international refugee protection.

In November 2023 she also proffered her opinion that homeless people living in tents have made a life-style decision. Thus homelessness was depicted as a kind of counter-culture protest which the nation should be less tolerant towards.

As with Trump in America – and Richard Nixon before him – the aim of rhetoric of this nature is to mobilise the 'silent majority' rather than convert those currently disposed towards supporting another party.

It is an approach associated with populism and it is further assumed by those who endorse this course of action that the tougher the rhetoric of authoritarianism becomes, the more likely it is that the latent right-wing vote can be mobilised.

Protest, however, has the potential to upset the apple cart in the sense of providing vocal and well-publicised critiques of the populism currently espoused by the Conservative Party.

In order to achieve an authoritarian state, therefore, it is necessary to be far less tolerant of protest and dissent than is currently the situation. But this requires the police to play ball with the Government.

Recent Conservative governments and protest

Concerns by the Conservative Party regarding the harmful effects of protest have been evident for some years, for example during the [Black Lives Matters protests in Bristol in 2020](#) which

also witnessed direct action leading to the toppling of a statue of slave trader Edward Colston which was then dumped into Bristol Harbour.

The then Home Secretary, Priti Patel, regarded this action as “utterly disgraceful” and “sheer vandalism”, and demanded that the Chief Constable of Avon and Somerset explained police inaction to prevent this from having taken place. At the time, her involvement in what was a police operational decision was [branded as “ill-judged meddling”](#).



Former Home Secretary Suella Braverman had put pressure on chief constables around the policing of pro-Palestinian protests

But comments on the policing of protest have continued to be made. In November 2022, Mrs Braverman addressed the conference of the National Police Chiefs’ Council in [which she urged chief officers to “step up” and adopt a “firmer line”](#) against Just Stop Oil protesters, whose direct action tactics included blocking traffic on the M25 motorway.

More recently, in October 2023, the then Home Secretary [sent a letter to all chief constables](#) which effectively instructed them to pursue criminal charges at pro-Palestinian protests and demonstrations.

The police were urged to consider whether, in certain circumstances, the use of utterances that included 'From the river to the sea, Palestine will be free' amounted to a racially aggravated Section 5 public order offence.

She continued: "I encourage all Chief Officers to ensure that any protests which could exacerbate community tensions by way of offensive placards, chants, or behaviours that could be construed as incitement or harassment, have a strong police presence to ensure perpetrators are appropriately dealt with, and that communities feel protected."

Latterly she issued a scathing attack on the Metropolitan Police Commissioner's agreement that at pro-Palestinian march on 11 November to coincide with the date of Armistice Day could go ahead.

A [recent article by Owen West in Policing Insight](#) reminds us that bans are problematic in the sense that such "will not enhance public safety... it actually increases tension and division and increases risks to public and officer safety".

His wise words were reinforced by the situation that the pro-Palestinian demonstration on 11 November attracted at least 300,000 participants, many of whom would have turned up regardless of a ban. Thus accepting the protest would take place and putting in place arrangements to police it was the wisest course of action.

Mrs Braverman accused the Metropolitan Police Commissioner of making his decision on the 11 November event founded on bias, claiming (in an [article in the Times Newspaper on 8 November 2023](#)) that aggressive right-wing protesters were "rightly met with a stern response", while "pro-Palestinian mobs" were "largely ignored".

This event also prompted the Prime Minister to warn the Metropolitan Commissioner that he would be held accountable should any disorder arise at this protest, thereby lending tacit support to the desire that operational decisions relating to protest should follow government wishes.

In the event, the 11 November pro-Palestinian protest passed off relatively peacefully, the main problems arising from the presence of counter protesters whom the MPS identified as being identified with far-right political organisations.

Whether these counter protesters were inspired to act in the manner they did because of the then Home Secretary's negative remarks regarding the pro-Palestinian protest is a matter of conjecture.

There was, however, an eerie parallel between the appearance of right-wing mobs in London promoting – as they saw it – the Government's views, and those that appeared at Capitol Hill in January 2021 seeking to get the results of the general election overturned in order for Donald Trump to remain President.

What is at the back of these attacks on the police by the Conservative Party is that they recognise that when the police exercise operational independence in relation to the policing of protest, this is not guaranteed to work in the Government's favour.

One solution to this put forward by the Government is to root out those perceived as dissidents in the police service, which resulted in [Mrs Braverman's decision in September 2023 to commission](#) HM Inspectorate of Constabulary and Fire & Rescue Services to conduct an inquiry into police involvement in politically contested matters.

She justified this by arguing that public displays of allegiance with political causes “opens some forces up to accusations of virtue-signalling and that when officers adopt or participate in political or social campaigns, for example, by taking the knee, they risk losing the support of the public”. The example chosen equates with earlier Ministerial concerns that protests by the Black Lives Movement were treated leniently.

A more radical solution which would suit the present Government's purposes, however, is for the Government to exercise a far greater role in determining police policies than are provided for by the current governance arrangements, which are enshrined in the [2011 Police Reform and Social Responsibility Act](#).

Doing battle with the police service regarding operational matters is a far cry from the relationship secured by the Conservative Party with the police service when Margaret Thatcher was Prime Minister.

Police-government relations in the Thatcher era

Back in the day when Margaret Thatcher became leader of the Conservative Party (in 1975) and then Prime Minister (1979-2000), there was a genuine affinity between the police service and the Conservative Party.

As was argued by [Loader and Mulcahy \(2003:287\)](#): “This relationship was the product of a mutually corroborating combination of some urgently felt political imperatives and some deeply felt political sentiments.”

The Police Federation’s Law and Order campaign in the 1970s very much reflected the Conservative stance on crime and disorder at that time, and one of her Government’s first actions was to grant the police service a large pay rise.

Then it was payback time for the police, who were required to counter dissent from those most affected by government economic policies, one consequence of which was that unemployment rose to above 3 million between 1982 and 1987, creating an underclass who were both unemployed and unemployable.

Dissent to government policies in the form of rioting and industrial unrest arose in the 1980s to which the police service had to respond.

First in the 1981 inner city riots and then in the 1984/5 miners’ dispute, the police acted firmly and in the certain knowledge that should things go wrong, they would get the unconditional support of the Government. Mrs Thatcher’s impassioned defence of [police actions at Orgreave in June 1984](#) well summarised the close relationship between police and government that existed at that time.

This relationship between the police service and government during the 1980s was not based on any changes to police governance; neither did it arise on the back of Mrs Thatcher travelling the country to assert what a rotten job the police were doing in an attempt to get public opinion to force the police to get onside with her government.

Rather, it was constructed on informal arrangements whereby the Government could make requests to the police regarding operational matters.

One example of this related to the interception of travelling pickets. The introduction of what was then called the National Reporting Centre (which co-ordinated mutual aid arrangements during the miners' 1984/5 dispute) made the processing of informal requests simpler by giving the Government just one senior police body with which it needed to communicate and which possessed the authority to turn informal government requests into operational decisions.

Constabulary independence and contemporary protest

But things have changed since the Thatcher era. Although, as [Tom Andrews asserts in a recent article in Policing Insight](#), complete operational independence by chief constables was more of a myth than a reality, it possesses practical relevance to contemporary policing as well as having symbolic importance for the image of an impartial police service.

In recent years, chief constables have used their independent judgement in connection with protest. But this display of independence does not at all suit those in the Conservative Party who wish the police to neuter protest in the manner that this was done during the 1980s.

This situation has led to police actions regarding protest being publicly challenged by senior members of the Conservative Party. These challenges amount to a frontal attack on constabulary independence, with the objective of mobilising latent right-wing sentiment in the country against the police and their decision-making.

Scapegoating the police service in this manner further serves the highly useful political purpose of detracting attention away from the performance of the Government, including that on issues that form the underpinnings of contemporary protest.

And criticisms by recent Conservative governments regarding police operational independence have been part of a broader picture that aims to place policing under a far greater degree of centralised control than was envisaged when the 2011 legislation was enacted.

Changes to police governance

When the office of police and crime commissioner (PCC) was first set up, it was assumed that the main threat to the governance arrangements that it created would come in the form of attempts by PCCs to encroach upon a chief constable's operational independence.

Accordingly, when the 2011 legislation was being introduced into Parliament, the Government promised to “protect absolutely” what it referred to as the “fundamental principle of British policing”, a situation that is affirmed in [Section 32 of the 2023 Policing Protocol Order](#).

However, attempts by PCCs to significantly encroach onto chief constables’ operational independence never materialised; indeed, the criticism that arose during the pandemic was that PCCs intervened too little in controversial police tactics to enforce lockdown, such as the use of drones to monitor the movements of suspected curfew-breakers.

Instead, the main challenge to police governance arrangements embodied in the 2011 legislation have come from central government. In recent years Conservative governments have attempted to claw back power exercised by both PCCs and chief constables in order to ensure that the police agenda is dominated by delivering on issues selected by the Government.

This approach is formally reflected in [the Strategic Policing Requirement](#) and the re-vamping in 2019 of the National Policing Board, which – according to [the gov.uk website](#) – gives the Home Secretary the ability to “directly engage with the policing sector to set the long-term strategic direction for policing”.

Additionally, the future role anticipated for PCCs (as expressed in the *2025 Police Vision*) is to “be at the heart of engaging communities in the reform plans” that were put forward in the document, to ensure that “the public understand and have confidence in” and changes made to policing. That is, acting as an intermediary to sell centrally determined police reform to local police force area electorates.

Fundamental rethinking

In his recent article in *Policing Insight*, Tom Andrews spoke of the need for there to be Royal Commission on policing. If such a body was set up, police governance would be high on the agenda.

Writing some years ago, [Neil Walker \(2000: 4-6\)](#) argued the need for the creation of a “regulatory framework which encourages the police to promote a high overall level of societal security... rather than permitting them to undermine security generally or to give undue priority

to some of its aspects at the expense of others”.

Within this framework, Walker argued that the state should “reflexively acknowledge its own position as an interested party, and ...embrace measures which preclude or limit its ability to influence the performance of the police function unduly in its own favour”.

In conclusion, he suggested that the state must develop a framework of governance which “both serves to enable and constrain the police effectively and to constrain the state’s own capacity to interfere unduly on its own behalf”.

A fundamental re-think regarding police governance would be a long-term solution to the issues outlined earlier in this article. In the short term, however, there is a need to acknowledge that the governance arrangements as they relate to the policing of protest are far from perfect.

Leaving operational decisions primarily in the hands of the police can bring serious problems, as was illustrated by the way in which the MPS handled the vigil for Sarah Everard in Clapham Common in 2021.

But remedying the democratic deficit in the policing of protest by permitting central government to exert a considerable degree of control over operational decisions is fraught with danger, resulting in a politicised police force doing the bidding of the Government.

One solution regarding the policing of protests would be to create a body modelled on the Parades Commission for Northern Ireland, which operates as a non-departmental body sponsored by the Northern Ireland Office.

There are several issues that would need to be explored regarding the policy transfer of this arrangement to mainland Britain which includes the appointment of members (in Northern Ireland the seven members are appointed by the Secretary of State for Northern Ireland) and the structure (which would doubtless necessitate local organisation which could be fashioned around local police force areas or perhaps by a regional structure superintended by a central body).

But a development of this kind would eliminate the current situation whereby the authority of the police service is being constantly undermined by governments publicly condemning

operational decisions in order to further their own political purposes.

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