

# **Amnesty International UK**

## **Submission to the Joint Committee on Human Rights - Police, Crime, Sentencing and Courts Bill**

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## **Amnesty International UK**

Amnesty International UK is a national section of a global movement of over seven million people who campaign for every person to enjoy all rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We represent more than 670,000 supporters in the United Kingdom. We are independent of any government, political ideology, economic interest or religion.

### **Summary of recommendations<sup>1</sup>**

- Given the scope and scale of problematic elements of this Bill, **Amnesty International is calling for the Police, Crime, Sentencing and Courts Bill to be dropped entirely**. While there may be some welcome provisions within it, those provisions could and should be introduced through other more appropriate legislation.
- Should the Bill not be withdrawn completely, Amnesty International urges Committee members to call for:
  - **Amendments to Part 2 Chapter 1: strategies to reduce serious violence**
    - **Remove requirements to supply information to local Policing Bodies**
    - **Remove language placing qualifications on data protections**
    - **Insert new clause to reference the Public Sector Equality Duty**
    - **Ensure the rights of victims are safeguarded**
  - **Removal of Part 3: public order**
  - **Removal of Part 4: unauthorised encampments**
  - **Removal of Part 10 Chapter 1: serious violence reduction orders**

### **Introduction**

1. The enormous and permanent extension of policing and ministerial powers as articulated within this proposed legislation would introduce the most significant curtailment of rights in decades, and comes at a time when many established freedoms are already restricted in unprecedented ways due to emergency temporary measures put in place to protect public health during the Covid-19 Pandemic.
2. For the purposes of this submission, we are focussing on two substantive issues: the rights to peaceful protest; and racial discrimination and disproportionality.

**Are the proposed changes to the law governing public assemblies, processions and one-person protests necessary to protect those adversely affected by such activities? Do the proposals in Part 3 of the Bill adequately protect the right to peaceful assembly (Article 11 ECHR) and the right to free expression (Article 10 ECHR)?**

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<sup>1</sup> Given the word limit we have not been able to include detailed recommendations for amendments here – for detailed recommendations please either see Amnesty International UK’s submission to the Bill Committee or request further information from Amnesty.

3. The rights to peaceful protest are fundamental universal rights enshrined in international and domestic human rights law. The state and its agencies have a positive obligation to protect the rights of peaceful protest and any restrictions or limitations must be imposed as a last resort in cases where it is necessary to prevent serious harm, and even then, only after all other less intrusive measures are considered. For example as articulated in the UN Human Rights Council General Commentary on the right to peaceful assembly in September 2020.<sup>2</sup>
4. “States parties should not rely on a vague definition of “public order” to justify overbroad restrictions on the right of peaceful assembly.<sup>3</sup> Peaceful assemblies can in some cases be inherently or deliberately disruptive and require a significant degree of toleration. “
5. In our view, Part 3 of this Bill represents a significant lowering of thresholds applied to public order situations with the introduction of new highly subjective and ill-defined vague terms such as noise, unease and annoyance. The Bill also gives Ministers further enhanced powers to issue further legally binding regulations around these highly subjective and vague thresholds, which raises the prospect that the current or any future government may misuse these powers to stifle criticism and views that it might find uncomfortable. This sets an enormously dangerous precedent.
6. The new criminal offence of participating in a demonstration and not being aware of any restrictions in place using the threshold of “ought to have known” is a hugely disproportionate criminalisation of individuals whose activities would otherwise have been perfectly lawful in any other given context.
7. It is also crucial to point out that the police already have considerable legal powers to police protest. Police officers in the UK can and do make arrests for any number of offences in relation to policing demonstrations. These include, but are not limited to trespass, criminal damage, causing harassment alarm or distress, inciting or being violent and, blocking or otherwise impeding public highways. Powers also include intelligence led pre-emptive arrests and the use of reasonable force where necessary. Police also have authority to deploy a wide range of surveillance tools to monitor crowds and identify individuals as well as existing broad powers to stop, search and detain <sup>4</sup>
8. Part 3 of this Bill as worded, will also in our view allow police officers to make any decisions on restrictions and limitations as “appear to be necessary”. These are excessive powers, which will not only place unreasonable burdens on police officers to make correct judgements in complex situations, but will almost certainly lead to inconsistent and subjective decisions around protests which will further undermine trust and confidence in policing, especially by those communities who already feel overpoliced.
9. In this regard, Amnesty notes that evidence clearly points to unacceptable levels of racial disproportionality within policing and the wider criminal justice system. The findings of the MacPherson Report into the death of Stephen Lawrence; the Lammy review into racial discrimination within the criminal justice system; the Review of the Metropolitan Police’s

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<sup>2</sup> See Human Rights Committee, General comment No.37 (202) on the right of peaceful assembly (article 21) available at <https://digitallibrary.un.org/record/3884725?ln=en>

<sup>3</sup> CCPR/C/KAZ/CO/1, para. 26; and CCPR/C/DZA/CO/4, paras. 45–46.

<sup>4</sup> See for example the College of Policing’s Authorised Professional Practice on Public order, available at <https://www.app.college.police.uk/app-content/public-order/>

Gangs Matrix as well as a mountain of statistical evidence presented by the Home Office's Use of Force reporting system, collectively demonstrates unacceptable levels of institutional racism within policing, specially targeted towards young black men. Other groups, such as Irish travellers, and in certain contexts other minoritised groups face similar disproportionate over-policing.

### **Does the Bill give rise to any other human rights concerns?**

10. Amnesty is seriously concerned that the Bill would further entrench racial discrimination into a criminal justice system that is already structurally racist. Proposals under Part 3 of the Bill would potentially criminalise huge numbers of people, but (for reasons set out above and below) Black and other minoritized people are likely to be disproportionately affected by the extension of police powers in this area.
11. In addition, other parts of the Bill introduce provisions that are likely to worsen discrimination in areas of the criminal justice system that already disproportionately affects Black and other minoritised groups.

### **Part 2 Chapter 1 FUNCTIONS RELATING TO SERIOUS VIOLENCES: Entrenching racial discrimination**

12. Part 2 Chapter 1 of the Bill creates new duties for specified authorities in a local area to work together to reduce serious violence. This sounds and indeed in theory is sensible. Amnesty recognises – from our work examining the functioning and failings of the Metropolitan Polices Gangs Matrix tool – that tackling serious violence is best addressed through a multi-agency approach – often referred to as the Public Health approach. However, in such approaches the police should be a key stakeholder, rather than the lead agency.
13. Building on our research which identified several systemic failings in the operation of the Metropolitan Police service's Gangs Matrix, we are concerned that the functions relating to serious violence as drafted in this Bill could further normalise and entrench racialised discriminatory practice amongst a potentially wide range of activities undertaken at local and national level to reduce serious violence. These sections appear to repeat the serious failings identified by both the Information Commissioners Office<sup>5</sup> and the Mayor's Office of Police and Crime (MOPAC) investigations relating to the Metropolitan Police's Gangs Matrix<sup>6</sup>.
14. In short, those failings related to a system that embedded structural racism within policing tools by disproportionately targeting young black men; sharing sensitive data widely amongst a large group of local stakeholders without adequate data sharing agreements; conflating victims of violence with the perpetrators of violence; and keeping large numbers of individuals on a database where there was insufficient evidence or justification for their inclusion, resulting in a number of wider seriously negative impacts on those individuals in respect of their access to housing, education and jobs.
15. It is worth noting that following years of campaigning by organisations such as The Monitoring Group and StopWatch, and subsequent investigations by the ICO (and its

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<sup>5</sup> See <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2018/11/ico-finds-metropolitan-police-service-s-gangs-matrix-breached-data-protection-laws/>

<sup>6</sup> See MOPAC summary review findings over the Gangs Matrix available at [https://www.london.gov.uk/sites/default/files/gvm\\_update\\_jan\\_2021\\_final\\_for\\_publication\\_.pdf](https://www.london.gov.uk/sites/default/files/gvm_update_jan_2021_final_for_publication_.pdf)

enforcement notice), MOPAC and Amnesty International, the Metropolitan Police's Gangs Matrix was significantly reformed and it is subject to ongoing review. The Bill could in our view have the effect of embedding these discriminatory and harmful failings on a permanent legislative footing across a very wide range of activities.

## **Part 10 Chapter 1: SERIOUS VIOLENCE REDUCTION ORDERS**

16. This section of the Bill introduces Serious Violence Reduction Orders (SRVOs) which extend stop and search powers. SVROs would be imposed on individuals based on a "balance of probability" judgment that they committed a crime with a bladed or offensive weapon, setting a very low threshold to criminalise. However they could also be applied to anyone involved in an incident who "ought to have known" a weapon was present, even if they themselves did not have one. Anyone subject to an SVRO can then be subjected to stop and search at any time, effectively meaning individuals can be stopped and searched without any suspicion of being involved in any current crime.
17. It is clear that stop and search powers overwhelmingly are used against black people. NGO Stopwatch have documented that Black people are at least eight times as likely as their white counterparts to be stopped and searched.<sup>7</sup> The College of Policing<sup>8</sup> and Her Majesty's inspectorate of Constabulary<sup>9</sup> have questioned the effectiveness of existing stop and search powers in the detection and prevention of crime. Both bodies have concluded their over-use and misuse has clearly undermined public trust and confidence in the police, specifically amongst Black and Asian communities who are disproportionately targeted.
18. In addition, given that knife crime is already subject to increasingly tough criminal sanction,<sup>10</sup> and stop and search powers are already overly broad and over-used, Amnesty concludes that the extension of stop and search powers, as provided for in the current iteration of SRVOs, are neither a necessary nor proportionate response to serious violence, especially given the likely impact on racial discrimination in already over-policed communities.

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<sup>7</sup> See [https://www.stop-watch.org/uploads/documents/StopWatch\\_Response\\_to\\_Macpherson\\_20\\_years\\_on.pdf](https://www.stop-watch.org/uploads/documents/StopWatch_Response_to_Macpherson_20_years_on.pdf)

<sup>8</sup> See <https://www.app.college.police.uk/app-content/stop-and-search/>

<sup>9</sup> See for example, Disproportionate use of police powers - A spotlight on stop and search and the use of force, HMICFRS Report, published on 26 February 2021, available at <https://www.justiceinspectorates.gov.uk/hmicfrs/publications/disproportionate-use-of-police-powers-a-spotlight-on-stop-and-search-and-the-use-of-force/>

<sup>10</sup> See for example, Crown Prosecution Service Guidance on Offensive weapons, knives, bladed and pointed articles, available at <https://www.cps.gov.uk/legal-guidance/offensive-weapons-knives-bladed-and-pointed-articles>