

The Police, Crime, Courts and Sentencing Bill and the Christian tradition of protest

A briefing from the Joint Public Issues Team, October 2021

The Police, Crime, Sentencing and Courts (PCSC) Bill is [currently progressing through Parliament](#) and is currently being read in the House of Lords. The Bill has been the subject of controversy, regarding its sheer size and unwieldy nature and especially around proposed limitations on protests. What then are the specifics of the wide-ranging piece of legislation? And what do Christians have to offer into the debate?

This briefing describes the scope of the Bill and explores key areas of interest and concern. It also offers a brief guide to the foundational theology and Christian traditions of protest, and why Christians might choose to engage in conversation around this particular issue.

Part 1: The Police, Crime, Sentencing and Courts Bill

A summary of the Bill

This Bill is wide-ranging in scope and theme, and proposes significant changes across the criminal justice system. Its measures will mostly apply only to England and Wales, with some measures also extending to Scotland. It seeks to implement a number of long-standing policy commitments from the Conservative Party, some predating this Government, alongside proposals made during the 2019 election and in recent White Papers. Its main measures include:

Sentencing

- Increasing the maximum sentence for assaults on emergency workers
- Introducing tougher laws around sentencing, including longer sentences for some crimes, and tougher laws around parole
- Reforms to the youth sentencing framework to strengthen alternatives to custody

Prevention, investigation and prosecution of crime

- Introducing a legal duty for local public services to work together to tackle serious violence
- Establishing a clearer framework for extracting information from electronic devices for criminal proceedings
- Extending definitions around sexual offences: ‘position of trust’ offences would now include roles in religious and sport settings
- Reversing bail reforms which have posed a risk to some victims, with some violent offenders being released on bail before trial
- The creation of Serious Violence Reduction Orders (SVROs), which would allow police to stop and search people based on their previous offending history without the “reasonable grounds” currently required

Public order

- Permit tougher punishments for minor acts of criminal damage to symbolically or sentimentally significant memorials.

- Amending police powers so police can impose restrictions on protests which are noisy enough to cause ‘intimidation or harassment’, ‘serious unease’, or ‘significant annoyance’. This would extend to protests consisting of just one person.
- Expanding the ‘controlled area’ around Parliament where protest activities are prohibited, making it harder to protest close to Westminster.
- Increase police powers regarding unauthorised encampments – including creating a criminal offence of residing in a vehicle on land without permission.

Other measures

- Amending laws around road traffic offences and cautions
- Permitting BSL interpreters in jury deliberation rooms.

Key areas of interest

Long awaited reforms

A number of the reforms contained within the PCSC Bill are long awaited, and are widely supported amendments to existing legislation.

Extending position of trust offences to people in religious settings, for example, acknowledges that the position of a religious leader is one which carries significant responsibility towards under-18s, who can be particularly vulnerable in religious settings. Legislating to include religious and sports leaders under this banner should help to safeguard children and vulnerable people.

Reforms to the bail process have also been recognised as being needed for some time. [Charities such as Women’s Aid](#) have been calling for the amendment about pre-charge bail since 2017, as the present rules allow some suspects accused of serious and violent crimes to be released without restrictions. These reforms to the bail system should provide this much-needed protection for survivors of violent crimes while criminal proceedings are in process.

Protest

However, there are several aspects of this Bill about which many people and organisations have raised concerns. Over 200 civil society organisations have signed an [Open Letter expressing alarm that it “represents an attack on some of the most fundamental rights of citizens”](#).

One of the most controversial elements of this Bill is its proposals around public order offences and the policing of ‘non-violent’ protests. While it does not remove the right to protest, which many would see as a vital element of a free and functioning democracy, it would impose more restrictions on demonstrations and protestors. It introduces an offence of “intentionally or recklessly causing public nuisance” with a maximum sentence of ten years.

Most, if not all, protests could be described as an ‘annoyance’ or as a ‘nuisance’ in some way, as some disruption is often inherent to the nature of a protest. It also gives the police the ability to introduce restrictions such as noise or time limits on protests.

Concern has been expressed that a lack of clarity around which protests are acceptable, and the powers handed to the Home Secretary to define this, pose a threat to people’s liberty to freely and peacefully protest, especially around Westminster.

The introduction of the Bill follows a period which has seen a series of well-attended and widely-publicised protests, including the Black Lives Matter demonstrations drawing attention to racial

injustice, the Extinction Rebellion protests and School Climate Strikes calling for further action on the climate crisis, numerous protests and counter-protests around Brexit, and the recent #ReclaimTheseStreets demonstrations about violence against women.

The direct impact of the Bill on future protests like these have prompted suspicion in some quarters that the measures are politically motivated rather than arising from legitimate concerns about public safety.

As the Bill has passed through the Lords, there has remained much consternation about the policing of protests. Specifically, there has been critique of the ambiguity of the term “serious disruption” (as yet undefined by the Secretary of State), that is used to engender police intervention.

An amendment tabled in the Lords has asked for the removal of reference to noise as a metric for the potential criminality of a protest. This follows recommendations from the Joint Committee for Human Rights that placing conditions on public assemblies is an infringement on the human right to protest.

Increased police powers

The Bill would hand greater powers to the police in situations where protests are deemed to be causing “serious annoyance”. Some organisations have raised concern that this has the potential to lead to increased police intervention in peaceful protests. [A briefing from the organisation Liberty](#) on this Bill notes that the police already “have wide powers to impose conditions on both static assemblies and marches, as well as broad discretion in how those powers are applied”.

Some see this as potentially changing the relationship between the police and the general public, moving away from the principles of community-based policing or “policing by consent”. Placing greater powers in the hands of the police in relation to politically or socially contentious issues risks opening up a rift between the police as ‘agents of the state’ and ‘the people’ – which some fear would not help promote the rule of law, but rather undermine it.

Concerns have particularly been raised around the disproportionate impact of new police enforcement powers on people of colour, especially young black men. [Black people are nine times more likely to be subject to be stopped and searched by the police than white people](#), and police are [five times more likely](#) to use force against black people than white people. The Government’s own equalities impact assessment has noted that the introduction of SVROs would disproportionately affect black people. [The Criminal Justice Alliance group said](#) there was “inadequate evidence of effectiveness” of SVROs, warning that they could disrupt rehabilitation and damage trust in the police.

In her conference speech in October, the Home Secretary announced further amendments to the already large bill. In response to the Insulate Britain protests, Priti Patel set out plans to increase the maximum sentence for disruption of a motorway. She also announced a new criminal offence for interfering with critical national infrastructures such as roads, railways and newspaper printing presses. Police are also expected to be given wider stop and search powers allowing officers to inspect activists for “lock on” equipment used to prevent them from being moved.

Trespass

The Bill proposes tougher legislation around criminalising trespass. A number of groups have raised concerns that this legislation will target Gypsy, Roma, and Travelling communities, and the growing number of van-dwellers, potentially threatening their way of life. These communities are already subject to serious discrimination and marginalisation in the UK. The changes to trespass laws,

including criminalising “unauthorised encampments”, pose a risk for these communities and their ability to live peacefully. [The Government equalities impact assessment admitted](#) that the policy “may place those from Gypsy, Roma and Traveller communities at a particular disadvantage”, but added: “It is our view that any indirect discrimination towards the above communities can be objectively justified.”

Calls to protect these lifestyles have emerged from the Lords. Tabled amendments include the introduction of a statutory duty to require that local authorities provide authorised sites to these mobile communities, in the event that they are evicted for trespassing.

Other approaches have included a call to repeal the Vagrancy Act of 1824 which would establish that “begging” or “sleeping rough” are not criminal in themselves. This would also seek to protect “rough sleeping” from being considered an “action causing alarm or distress”.

Gender based violence

Following the tragic murder of Sarah Everard, charities tackling gender-based violence have criticised the Bill for failing to include measures to protect people from violence and harassment on the streets.

Part 2: The Christian Tradition of Protest

Against the backdrop of protest and discourse about freedom of protest, what is the heritage of protest for Churches – particularly those based in England and Wales, where this legislation will have greatest effect?

The denominational partners in the Joint Public Issues Team come from the Baptist, Methodist and Reformed Church traditions, which have been labelled variously as ‘dissenting’ and ‘nonconformist’. The language of ‘Protestantism’ comes from the Reformation, where John of Saxony wrote in 1529:

We protest by these present, before God.... That we for us and our people, neither consent nor adhere in any manner whatsoever to the proposed decree, in anything that is contrary to God, to His Holy Word, to our right conscience, to the salvation of our souls, and to the last decree...¹

Protesting has therefore always been associated with our way of being church. The emphasis is not on saying ‘no’ to the state, but on following Jesus Christ as King: God alone is sovereign. Our early focus on the ‘separation of powers’ between God and Government was partly about being free from a state-enforced way of believing, which was a principle which early Christians held for other religions too.

If the King’s people be obedient and true subjects, obeying all humane lawes made by the King, our Lord the King can require no more: for men’s religion to God is betwixt God and themselves; the King shall not answer for it, neither may the King be judge between God and man. Let them be heretics, Turks, Jews or whatsoever, it appertains not to the earthly power to punish them in the least measure.²

Thomas Helwys, a founder of the Baptist movement, in *A Short Declaration of the Mistery of Iniquity*

¹ As cited in Curtis Freeman (2017), *Undomesticated Dissent*; democracy and the public virtue of religious nonconformity,

BUP, p.4.

² Thomas Helwys (1611/12), *A Short Declaration of the Mistery of Iniquity*

Whilst religious liberty has been a key driver for churches in ‘protesting’ traditions for themselves and others, this belief in the wider freedom of conscience inevitably had further political consequences. Our traditions emphasised the shared mortality of rulers and the theological conviction that they would also receive divine judgement from God for their actions. This stood in contrast to the language of the ‘divine right’ of Kings to rule as they will. Any permission that God grants to the rulers of a particular state is also dependent upon their behaviour being in obedience to God.

Acknowledging that all humans would share in judgement before God implies a fundamental equality for humanity. John Wesley, one of the founders of Methodism, was famously vocal against slavery, causing disturbance when he preached on the subject. This grasp of our God-given duty to protest against wider injustice and not just for religious liberty has been shown most powerfully through the Black voices in our traditions. Sam Sharpe, a Baptist deacon and an enslaved man, led slaves in protest, calling for a general strike in 1831 until the owners and managers listened to the slaves’ grievances. Many slaves died in this uprising, and Sharpe himself was hanged. When told that God’s providence had given him a certain station in life which he should accept, he appealed to Christ’s atonement, and said he would rather die on the gallows than live in slavery. This uprising was significant in bringing around the end of slavery – officially in 1834 in some parts of the British Empire, although some forms of slavery still persist today.

Negotiating the appropriate line between forceful and peaceful protest has been the subject of debate. Martin Luther King suggested the use of non-violent but intentionally confrontational tactics. He offered this critique of those who only sought compliance with the law, saying that their greatest stumbling block was:

the white moderate, who is more devoted to “order” than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice; who constantly says: “I agree with you in the goal you seek, but I cannot agree with your methods of direct action”; who paternalistically believes he can set the timetable for another man’s freedom; who lives by a mythical concept of time and who constantly advises the Negro to wait for a “more convenient season.”³

This debate continues on as Christians and Churches consider how to respond to contemporary injustices and systemic failures. Recently, Methodist theologians have developed this idea of how the church can resist its own embedded colonialism, and reach instead for what is described as a ‘politics of love’⁴. Drawing on the idea that love is a verb, it seeks to distinguish love from what it terms ‘sovereignty based systems of power’ (monarchy, hierarchy, patriarchy), and instead develops a political theology called ‘kenarchy’. Kenarchy is a newly invented word crafted from the Greek ‘keno’ to empty, and ‘arche’, an original way or principle of ordering social space:

In essence, kenarchy and its praxis are about emptying out sovereign power and replacing it with love of the other, even one’s enemy.⁵

In a Western worldview, where politics assumes that common good comes from the application of sovereign power with its hierarchy and patriarchy, this is instead “to knowingly introduce a radically alternative politics to that with which we are familiar and indeed which the very word politics connotes in many minds.”⁶

³ Martin Luther King Jr. (1963), “Letter from Birmingham Jail”, The Martin Luther King Jr. Research and Education Institute

⁴ See Anthony Reddie (2019), *Theologising Brexit*, for an excellent critique of how Christianity has been embedded with colonialism

⁵ Kenarchy.org

⁶ Roger Haydon Mitchell, *What are the Politics of Love?* Discourse Journal Vol 8, No 4, December 2018.

Our traditions all contain theology and a history of practice that draws us into a radical politics of love, one which must love our enemies and yet causes us to constantly critique power. This love suggests violence against another would not be appropriate, yet it will often lead to protest, as the need to press into a positive peace with the presence of justice must always take precedence over the absence of tension or conflict. In the words of the prophet Jeremiah, we cannot cry “peace, peace” when there is no peace.

Questions for discussion and reflection

1. What would you consider to be acceptable ways to highlight injustice and seek to end it?
2. Is protest important to you as a Christian? If so, what elements of Christian belief or tradition have helped inform your position?
3. Are there any ways in which your activities as a protester, Christian, or church might be affected by this Bill? Who will be most affected by the proposals?

Engaging with the Police Bill

Church Response to the Bill

More than 350 church and civil society leaders have written to the Home Secretary expressing concern about government proposals to restrict protest and increase police powers. Signatories include senior representatives of the Methodist and United Reformed Churches and the Baptist Union of Great Britain. They argue that “This Bill continues to represent an attack on some of the most fundamental rights of citizens, in particular those from marginalised communities.”

Personal Engagement

At the time of writing, the [PCSC Bill is approaching the committee stage](#) in the House of Lords, where the most in-depth scrutiny of Bills occurs. Proceedings for this stage are due to begin on the 20th of October. For a Bill to be enacted into law, it must successfully pass through both Houses of Parliament before receiving Royal Assent, providing a number of opportunities for amendment and debate. [You can read about the stages of a Parliamentary Bill here.](#)

There are a number of ways to engage with the Bill as it passes through Parliament:

- Prayer: Keep parliamentarians in your prayers, especially on the days when the Bill is being discussed.
- Your MP: Throughout a Bill’s journey through parliament, MPs have the opportunity to scrutinise and raise questions. If you have concerns about measures in the Bill, writing to your MP or arranging a meeting is a productive way to engage, particularly as the Bill progresses through the House of Commons.
- Committee Stages: At the Committee stages, amendments are discussed and groups within and outside of parliament have a chance to comment. This is a chance to support amendments proposed by campaigning groups, or by encouraging your MP or Members of the House of Lords or to support an amendment.

This briefing was prepared by the Joint Public Issues Team of the Baptist Union of Great Britain, Methodist Church and United Reformed Church (www.jointpublicissues.org.uk).

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