

**YOUR
RIGHT**

**TO
PROTEST**

*Also by Christian Weaver
and available from Profile Books*

THE LAW IN 60 SECONDS

CHRISTIAN WEAVER

YOUR RIGHT

TO PROTEST

UNDERSTAND IT, USE IT



Profile Books

First published in Great Britain in 2024 by
Profile Books Ltd
29 Cloth Fair
London
EC1A 7JQ

www.profilebooks.com

Copyright © Christian Weaver, 2024

1 3 5 7 9 10 8 6 4 2

Designed and set by EM&EN
Printed and bound in Great Britain by
CPI Group (UK) Ltd, Croydon, CR0 4YY

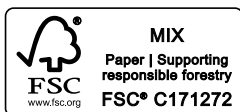
The moral right of the author has been asserted.

All rights reserved. Without limiting the rights under copyright reserved above, no part of this publication may be reproduced, stored or introduced into a retrieval system, or transmitted, in any form or by any means (electronic, mechanical, photocopying, recording or otherwise), without the prior written permission of both the copyright owner and the publisher of this book.

While every reasonable effort has been made to make the content of this book accurate and up to date, no responsibility for its accuracy, or for any consequences of relying on it, is assumed by the author or the publisher. The content of the book does not, and is not intended to, amount to legal advice. You are expressly advised to obtain specific, personal advice from a lawyer about your case or matter and not to rely on the content of this book.

A CIP catalogue record for this book is available from the British Library.

ISBN 978 1 80522 344 3
eISBN 978 1 80522 345 0



*I dedicate this book to Awaab Ishak.
Although I never had the pleasure of
meeting you, it has been an honour to get
to know your parents and their close friends.
I hope this book contributes to the change
we so desperately need.*

Contents

Introduction / 1

1: Foundations of Protest:
Understanding the Legal Landscape / 9

2: Marches and Demonstrations / 19

3: Direct Action / 51

4: Activism from Your Home / 75

5: Protest and Employment / 111

6: Protest as Expression:
Chants, Placards, Graffiti and Beyond / 133

7: Becoming a Target for Your Activism / 145

8: The Police and Justice System / 167

9: Court as an Arena for Protest / 209

Acknowledgements and Resources / 225

Bust Card / 229

INTRODUCTION

*You may never know what results come
of your actions, but if you do nothing,
there will be no results.*

Mahatma Gandhi

We live in a time when big issues dominate our lives: injustice and outrage fill the news, and events happening across the world can be felt within seconds with a vibration in our pocket. It can seem like so much needs to change – and that we need to stand up and be counted as that change takes place.

Within our lifetimes, experts predict that the effects of climate change will be irreversible unless we drastically alter our trajectory. Nearly a third of children across the United Kingdom are living in poverty, with thousands of families presently relying on foodbanks to get by. In the space of a generation, university fees for students have tripled, while life expectancy for both men and women has fallen. Our trust in once-revered institutions now stands at an

all-time low, and attempts at division dominate the headlines and the nation.

Amid this adversity, individuals and communities are rallying around the world. The protests of earlier movements laid the bedrock of our democracy and continue to ignite the aspirations of future generations for change. From the suffragettes slashing paintings to Just Stop Oil, and from the Bristol bus boycott to Reclaim the Night marches, protests in various forms and across the political spectrum have transformed the society in which we live. Present-day actions and campaigns, in which you may already be involved or soon will be, hold the power to shape our collective future.

Protest is for everybody; whether you're a seasoned activist or an individual irked by a specific issue, standing up for what you believe in is your right. Indeed, the right to protest was hard fought for. These are rights that we now take for granted, but as we move forward through crises, culture wars and extreme politics, it is becoming increasingly clear that these rights can be challenged – and lost – just as they were gained.

In this era of uncertainty, *Your Right to Protest* serves as your legal compass, there to assure you of the legal reality, whichever way you choose to go. Whether you're on a peaceful march, standing on a picket line or writing a letter to your MP, this

guide is for anyone taking a stand, anywhere. It is a handbook to the hard-won rights that underpin your ability to protest, and the laws that you might fight to uphold – or choose to break.

Writing this book holds profound significance for me. From an early age, I set my sights on using the power of the law to help empower those facing injustice. One of my earliest childhood memories is of witnessing sustained racist attacks on my grandparents' car, with dog faeces smeared over it weekly. Despite calls to the police, the perpetrators were not found, leaving my grandparents feeling violated in their own home. However, our family rallied together, and my grandfather defiantly erected a placard proclaiming, 'This family will not be intimidated by racists.' It was a powerful act of courage in the face of adversity. The spirit of activism ignited in me during those turbulent times has guided me throughout my career as a barrister, bringing me face to face with what I consider to be some of the gravest injustices of our time. My experiences instilled in me the principles of fairness and equality and informed my purpose to stand up for ordinary people and, to the extent I can, right wrongs. Being in the courtroom, I'm able to be a voice for those who might otherwise not have one.

It's in the courts where I represented the family of Awaab Ishak, a two-year-old boy who tragically died due to prolonged exposure to mould in his home, owned by Rochdale Boroughwide Housing. Despite desperate pleas to their landlord to rectify the uninhabitable conditions, nothing was done, with the landlord wrongly attributing the mould to the family's 'lifestyle and bathing' habits. After relentless campaigning, including more than 170,000 individuals signing a petition calling for change, 'Awaab's Law' was enacted to prevent similar injustices in the future. Since then I have represented the family of Exodus Eyob, a one-year-old boy who tragically fell from a high-rise tower-block window in Leeds. His family assert that on numerous occasions they complained to the council about the safety of the window from which he fell. The family's campaigning garnered national attention, and as I write this book, nearly 50,000 people are calling for improved window safety in high-rise buildings, making their voices heard via petition.

As a barrister representing numerous client groups in the Covid-19 public inquiry, I have scrutinised the WhatsApp messages and emails of senior politicians who, against sound reasoning, made decisions that adversely impacted millions of people. Similarly, I have scrutinised damning correspondence from individuals in some of our most trusted

institutions as part of the cases I've taken on, where active attempts have been made to cover up the truth – exploiting their power to withhold information from the public.

Throughout my work I have made it my mission to democratise the law and empower individuals with knowledge of their rights – a mission that feels increasingly urgent in a society where access to justice is diminishing for many. As a response to these barriers, I wrote my debut book, *The Law in 60 Seconds*, to help educate the public on their legal rights. Some of the insights from that work have been integrated and updated in *Your Right to Protest*.

Ultimately, I have come to understand that genuine change seldom occurs unless ordinary people stand up to be counted. Using your voice may seem daunting, and this book is not here to steer you towards any specific course of action. Rather, it is designed to equip you with knowledge about the law *should you choose* to take action. I firmly believe that everyone deserves to understand the rights and laws that underpin their actions.

Whether your mode of protest is on the street, online, as part of a labour dispute or in the courtroom, there exist invisible rules that can either hinder or support your efforts. Throughout the pages that follow, I'll

introduce you to the foundational principles governing your right to protest, shedding light on these powers and fostering confidence in your ability to express yourself.

Are you eager to raise awareness about an issue? Delve into the intricacies of laws surrounding stickering, placards, graffiti, leaflets and online advocacy. Seeking to grasp the evolving landscape of our civil liberties? Explore laws shaped over centuries by activists, politicians and judges, providing essential context for your activism. And if your convictions lead you to direct action, learn about the laws you might encounter and the potential consequences. However you choose to transform frustration into tangible action, this book will help you do so with knowledge, authenticity and, if you desire, compliance with the law. It will empower you to grasp your right to protest and employ it effectively.

Using concise chapters for easy reference, we'll navigate the essentials needed to stand up for what you believe in. Whether you are orchestrating a demonstration, participating in one, understanding potential legal ramifications, or navigating the justice system, this book stands as your helpful guide. Keep it handy for those moments of frustration at home, empowering you to draft a Freedom of Information request, or tuck it into your pocket as you head to the streets with your peers, arming you with

knowledge about police powers and your rights, and learn what the police can – and can't – do if they stop you. Having this information at your disposal acknowledges the sacrifices of those who fought for the rights you now possess.

Welcome to *Your Right to Protest* – a pocket-sized powerhouse. Allow it to help make your activism informed, your voice heard and your impact lasting.

Important note

This pocket guide is designed to be concise and accessible, and to fit right in your pocket for quick reference. While it provides valuable insights, it cannot capture all the nuances and intricacies of every topic. For detailed guidance tailored to your specific situation, consider consulting a legal professional.

1

FOUNDATIONS OF PROTEST

Understanding the Legal Landscape

Protest is powerful. It's an instrument through which individuals or groups can advocate for their beliefs and causes. Whether rallying against injustice, amplifying the voices of marginalised communities or challenging societal norms, protest has been a driving force behind significant social advancements throughout history. From civil rights advancements to environmental protections, protest movements have reshaped policies and perceptions alike.

The impact of protest may not always result in immediate policy changes or perceived justice, and that might not always be its primary objective. Its power often lies in raising awareness and reshaping public opinion to challenge entrenched norms and systems. As one well-known environmental activist writes, 'If protest depended on success, there would be little protest of any durability or significance.'

Today many forms of protest are under threat. Media outlets frame politics as a form of enter-

tainment rather than a governing of real-life consequences, while politicians themselves exploit divisive rhetoric to appeal to their base, and some public figures and politicians have built entire careers around appearing tough on protest, disparaging it as a public inconvenience rather than upholding it as a right. The enactment of the Police, Crime, Sentencing and Courts Act 2022 serves as a stark illustration of how the negative rhetoric surrounding protest can be translated into tangible, law-altering outcomes.

In this chapter, we will see how the right to protest is intricately woven into our human rights, and any attempts to undermine them clash with the fundamental principles of our democracy.

HUMAN RIGHTS

In the aftermath of the Second World War, a resolute commitment emerged to ensure that the horrors of that conflict would never be repeated. This determination took shape in the Universal Declaration of Human Rights, a groundbreaking document established by the United Nations in 1948. Endorsed by the international community, this declaration outlined the fundamental rights and freedoms that every individual should be entitled to and remains

a foundational pillar of human rights advocacy today. Building upon the principles in the Universal Declaration, the European Convention on Human Rights (ECHR) was created in 1950; it was designed to safeguard the human rights of individuals in the Council of Europe's member states, of which the UK is one. It's important to clarify that the Council of Europe is an international human rights organisation distinct from the European Union, from which the UK has withdrawn.

In 1998 the Human Rights Act was introduced, incorporating the principles of the ECHR into UK law. This Act ensures that our human rights are protected by public authorities, regardless of our background or circumstances.

So what exactly are your human rights? Well, the Human Rights Act encompasses sixteen rights, freedoms and protections that derive from the ECHR.

These are as follows:

Article 2: Right to life

*Article 3: Freedom from torture and inhuman or
degrading treatment or punishment*

Article 4: Freedom from slavery and forced labour

Article 5: Right to liberty and security

Article 6: Right to a fair trial

Article 7: No punishment without law

*Article 8: Respect for your private and family life,
home and correspondence*

*Article 9: Freedom of thought, conscience and
religion*

Article 10: Freedom of expression

*Article 11: Freedom of peaceful assembly and
association*

Article 12: Right to marry and start a family

*Article 14: Protection from discrimination in
respect of these rights and freedoms*

*Protocol 1, Article 1: Right to peaceful enjoyment
of your property*

Protocol 1, Article 2: Right to education

*Protocol 1, Article 3: Right to participate in free
elections*

*Protocol 13, Article 1: Abolition of the death
penalty*

*(Articles 1 and 13 of the ECHR, ensuring that
states must secure the rights of the Convention in
their own jurisdiction, and that if someone's rights
are violated they are able to access effective remedy,
do not feature in the Human Rights Act; by creating
the Act, the UK has fulfilled these rights.)*

A lot of the titles of these articles seem fairly self-explanatory but of course they hide complexities, and looking at them in more detail will give you a sense of what each actually means in practice. For

example, Article 5 protects you from arbitrary and unlawful detention; this means that unless there is a good reason, you must not be imprisoned or detained, and we take a closer look at this in Chapter 8. When it comes to protest, Articles 10 and 11 of the ECHR take centre stage.

Let's delve into them next.

Article 10: Freedom of expression

1. *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.*
2. *The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

Article 11: Freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

You'll see that Article 10 guarantees freedom of expression. This allows you to hold opinions and share information without interference from public authorities such as the police or government. It empowers you to express yourself freely, whether through social media posts or peaceful protests.

Article 11 safeguards freedom of assembly and association. This grants you the right to gather peacefully and form associations – or, put another way, ensures your ability to demonstrate and march

in public spaces, even when others may disagree with your motives or views.

Both Articles, incorporated into UK law by the Human Rights Act 1998, impose legal obligations on public authorities, including the police, to act in a manner consistent with these rights. Moreover, the police are mandated by law to facilitate protests, countering the perception that protest is an inherently disorderly and ungovernable act.

However, it's essential to recognise that these rights are not unrestricted. As you can see in reading Articles 10 and 11, the state retains the ability to impose restrictions, provided they are lawful and necessary. Nonetheless, the need for any such restriction to be proportionate means that it must not do more than is necessary to address the issue. In other words, the state cannot use a sledgehammer to crack a nut. The police, as a public authority, should take all reasonable steps to facilitate peaceful protest, as opposed to stopping it.

An erosion of our rights

The Human Rights Act is meant to serve as the cornerstone of your right to protest, offering the reassurance that most of what you plan to do to make your voice heard is not only acceptable but also protected by law. However, over the years, a

creeping erosion of these rights has occurred. Some of these changes directly target protest activities, while others, seemingly innocuous at first, have been used against individuals protesting.

In the chapters that follow, I will shine a light on all these laws and the harsh realities that are often hidden behind them. While many laws may seem reasonable on the surface, a closer look reveals their unintended – or sometimes deliberate – consequences. As a lawyer, I'm trained to spot these subtleties, and I'll share this knowledge with you.

I will also dissect mammoth pieces of legislation that have reshaped the protest landscape, such as the Police, Crime, Sentencing and Courts Act 2022 and the Public Order Act 2023 (see Chapter 3). Since becoming enshrined in law, the Police, Crime, Sentencing and Courts Act 2022 has been criticised for its broad provisions granting police enhanced powers to impose conditions on protests when there is deemed to be a risk that they will cause 'serious disruption' – a term open to interpretation and potential abuse. And then there's the Public Order Act 2023, which has sparked controversy for its restrictions on specific protest tactics and beefed-up stop and search powers. Placing legal constraints on numerous long-standing methods of protest, these laws aren't just dry legal texts – they're seismic shifts in how protests are regulated and understood.

Often in the media you'll come across lively debates and rumblings of policy proposals that could give you pause before protesting. This book will cut through the noise and give you the facts on the legislation that underpins your right to protest. Throughout this book, I will explore these laws and their implications, aiming to provide you with a clear understanding of your rights and the legal landscape surrounding protest in a way that keeps you clued up. Because it's not just about knowing your rights; it's about empowering yourself to understand them confidently in the face of legal complexities and challenges and, ultimately, to use them.

2

MARCHES AND DEMONSTRATIONS

In this chapter, we start with the most recognisable forms of protest – marches and demonstrations. Later in the book, we'll look at the many forms that protest can take, but here we will refer to these specific forms of action under the general banner of 'protest'.

From freedom of assembly to what to do if you encounter the police, it's vital to know how to safely exercise your right to protest while out on the streets. So here we'll be exploring the specific legislation that has been put in place to govern a protest, while covering some of the scenarios you might find yourself in, along with considering how you or the conduct of your companions may be perceived by the law.

These laws can apply to anyone, whether you're campaigning to keep your local library open or raising awareness on the history of a public monument. With this in mind, for the most part this book will avoid labelling individuals as 'protesters'. Instead, we'll generally use the term 'those protesting' or 'individuals protesting'. This deliberate choice reflects

the belief that anyone – whether an experienced student campaigner or a grandmother writing her first letter of complaint – should feel empowered to stand up for their convictions. They don't need to actively identify as being a 'protester'.

ORGANISING A PROTEST

Let's start with the two main forms of protest:

- the protest march; and
- the stationary demonstration.

Protest marches are when people will be moving along a route. Stationary demonstrations are when people are gathered in a location – think of a group with placards outside a local leisure centre, protesting over its impending closure.

Organising a protest march

The first thing to note is that the law requires you to deliver written notice to the police at least six days before the proposed start date of the march. Your written notice must detail the date and time of the march, the proposed route and the name and address of at least one organiser. This written notice

is to be given to a police station local to the area in which the march will be starting. The law states that if giving at least six days' notice would not be reasonably practicable (perhaps because the march is an immediate response to something), you must inform the police as soon as you can. Failure to properly notify the police or providing incorrect details when organising a march could result in criminal charges.

Organising a stationary demonstration

Unlike a protest march, there is no legal requirement that you give the police advance notice. Many organisers of stationary demonstrations make the tactical decision not to inform the police as they do not want to encourage them to impose conditions on the protest. Not telling the police of your intention to protest does not prevent them from imposing restrictions or requirements on the protest when they do learn about it. They could impose restrictions or requirements before it starts, or while it is in progress.

The law does not stop at where and how you can protest, but extends its reach to the language used at protests, including banners, signs and chants. For more information on expressing yourself when on a protest, turn to Chapter 6.

CONDITIONS THAT CAN BE PLACED UPON A PROTEST

When conditions can be imposed

Any senior police officer has the authority to impose conditions on both public marches and stationary demonstrations. This applies to one-person protests, too. A ‘senior police officer’ is the commissioner or chief constable or the most senior officer present at the scene.

Police may impose ‘such conditions as appear to the officer necessary’, affording the officer a wide range of options based on their judgement of what is required (though the conditions still must be proportionate in the sense of being the least restrictive way of preventing the disruption). The Public Order Act 1986, as amended by the Police, Crime, Sentencing and Courts Act 2022, states that the officer must reasonably believe the protest may cause:

- serious public disorder;
- serious damage to property;
- serious disruption to the life of the community.

They may do the same if they reasonably believe that the purpose of the protest is to intimidate others

(effectively, trying to compel others to do something they have a right *not* to do, or to compel them not to do something they have a right to do.)

‘Serious disruption to the life of the community’ encompasses any protest that, through physical obstruction, may do the following in a *more than minor* way:

- prevent or hinder day-to-day activities (including journeys);
- prevent or delay delivery of a time-sensitive product;
- prevent or disrupt access to essential goods/services.

Conditions can also be imposed if the officer reasonably believes that noise generated by the protest may result in serious disruption to the activities of an organisation that is active nearby or have a significant impact on people in the area, by causing them harassment, intimidation, alarm or distress.

(During the writing of this section, a legal challenge was brought by the human rights organisation Liberty against the government defining ‘serious disruption’ as meaning ‘more than minor’. The High Court ruled that the government exceeded its powers in relation to these provisions. The government has announced its intention to appeal the decision.

Despite the court's ruling, these principles remain active, and are therefore included in this book.)

When is some noise considered too much noise?

Determining when some noise will be too much noise is a critical issue, and it has sparked considerable concern. A Home Office policy paper sheds light on potential scenarios where noise-related conditions might be imposed:

What kind of scenarios could police impose noise-related conditions in?

Decisions on when to apply these powers will be an operational matter for the police. For example, we have all seen the detrimental and disruptive effects egregious noise generated by the 'Freedom Convoy' protests has caused to the residents of Ottawa in Canada. The constant honking of truck horns by protestors has led to a Canadian court imposing a 10-day injunction banning such actions. In circumstances such as these, these new powers would be extremely useful.

Other, hypothetical scenarios include:

- *a noisy protest in a town centre may not meet the threshold, but a protest creating the same*

amount of noise outside a school might, given the age of those likely to be impacted by the protests

- *a noisy protest outside an office with double glazing may not meet the threshold, but a protest creating the same amount of noise outside a care home for elderly people, a small GP surgery, or small street-level businesses might, given the level of disruption likely to be caused by the protests*
- *a noisy protest that only lasts a short amount of time may not meet the threshold, but a protest creating the same amount of noise over several days might, given the extended duration of the protest*

While this Home Office guidance provides insight, its practical application remains to be seen. As time progresses, we will gain a clearer understanding of how accurately this guidance aligns with real-world situations.

Should I be concerned about being a ‘public nuisance’?

In June 2022, section 78 of the Police, Crime, Sentencing and Courts Act 2022 (‘the PCSCA’) came into force. This created the offence of *intentionally or recklessly causing public nuisance*.