



Amnesty International is concerned about reports that authorities in the UK may apply the ‘terrorism connection’ power contained under s.69 Sentencing Act 2020 to cases of criminal damage in the course of direct action protest. As a result of this power being used, defendants would serve longer prison sentences, with a low chance of parole, and then face a terrorist notification regime once they are released. Amnesty International consider this to be a misuse of counter-terrorism powers, as the offences in these cases do not come close to meeting human rights compliant definitions of terrorism. The use of counter-terrorism powers in this context will disproportionately interfere with protest rights in the UK.

If a s.69 ‘terrorism connection’ finding is made in this case, it will be the first time that these powers have ever been used against criminal damage in the course of direct action protest. Previous direct action protest movements against military action, the arms trade and climate change have all involved acts of comparable criminality but none have been dealt with using s.69 terrorism powers or their predecessors.¹ The one time in recent years that a terrorism related power was used by prosecutors against activists engaging in direct action, the Stansted 15 case, the UK courts rightly concluded that this was inappropriate.²

The UK courts have until recently largely operated an approach to dealing with protests and other forms of direct action with a degree of toleration.³ This is not to say that the criminal law was not applied, but that in applying the criminal law the context of protest was distinguished from ordinary criminality. The approach of toleration, while still applying the criminal law, has been central to meeting the UK’s human rights obligations to act proportionately in its treatment of the rights to freedom of expression, peaceful assembly and association.

A core feature of the judicial policy of toleration within the criminal law has been the principle that the conscientious motivation of the defendants should be treated as a mitigating factor in sentencing for criminal offences that arise through acts of protest.⁴ It is in this way that acts which may legitimately be the concern of the criminal law when committed during protest are still treated in a way that addresses the potential harm caused while appropriately protecting the human rights that are engaged. Sentences derived in this way are more likely to meet the test of proportionality under international human rights law.

Amnesty International is therefore very seriously concerned that resort to a s.69 finding in cases of criminal damage committed during direct action would invert

¹ See AIUK Submission, ‘2nd Witness Statement of Sacha Deshmukh’ in R(Huda Ammori) v SSHD https://media.amnesty.org.uk/documents/Second_Witness_Statement_of_AIUK_FINAL_clean_copy.pdf

² Thacker & Ors, R. v [2021] EWCA Crim 97 (29 January 2021)

³ R v Jones (Margaret) [2006] UKHL 16

⁴ See eg R v Hallam & Ors [2025] EWCA Crim 199; and R v Jones (Margaret) [2006] UKHL 16



this principle, by misconstruing activists' conscientious motivation for their conduct into an aggravating factor to justify the use of terrorism sentencing powers. The end result is likely to be that people who commit criminal damage in the course of an act of protest are punished far more severely than those who do so in the course of ordinary criminality; a complete reversal of the UK's historic approach which risks undermining the exercise of human rights. This may also amount to discrimination based on political or other opinion.

As has been noted with deep concern by Amnesty and across UK civil society, there are signs that the UK authorities have already begun turning against this historic policy of toleration.⁵ A s.69 finding would constitute a major escalation in that process, that would have serious implications for the protection of the rights to freedom of expression and peaceful assembly in the country.

The turn against toleration has been observed with alarm by international human rights monitors. The Council of Europe's High Commissioner for Human Rights wrote that the legislative changes to protest law that have been made in the last few years, 'allow authorities to impose excessive limits on freedom of assembly and expression and risk over policing.'⁶ With specific regard to the use of counter-terrorism powers, the High Commissioner stated that, 'domestic legislation designed to counter 'terrorism' or 'violent extremism' must not impose any limitations on fundamental rights and freedoms, including the right to freedom of peaceful assembly, that are not strictly necessary for the protection of national security and the rights and freedoms of others (see, for example, the ODIHR/Venice Commission Guidelines on Peaceful Assembly). I ask the government to take all necessary steps to ensure that the policing of protests conforms to this and related principles of law.'⁷

Similarly, the UN High Commissioner for Human Rights wrote regarding developments in UK protest legislation that, 'Fundamental freedoms are under attack in many parts of the world. The United Kingdom, quite rightly, has spoken out against such measures. But to my regret, the UK's own Public Order Act is now also likely to produce a profoundly chilling effect on civic freedoms.'⁸ The UN High Commissioner later stated that the proscription of Palestine Action, 'raises serious concerns that counter-terrorism laws are being applied to conduct that is

⁵ See eg <https://www.justice.org.uk/reports/striking-the-balance-protest-rights-and-public-order>; <https://www.hrw.org/report/2026/01/08/silencing-the-streets/the-right-to-protest-under-attack-in-the-united-kingdom>; <https://cccjustice.org/wp-content/uploads/2026/05/BPP-Digital.pdf>

⁶ <https://www.coe.int/en/web/commissioner/-/united-kingdom-commissioner-addresses-human-rights-issues-in-policing-of-protests-and-the-situation-of-trans-people>.

⁷ *Ibid.* While this point was made in the context of the proscription of Palestine Action, the same point would equally apply to the use of s.69 powers in the present case.

⁸ <https://www.ohchr.org/en/opinion-editorial/2023/05/public-order-act-will-have-chilling-effect-your-civic-freedoms-it-must-be>;



not terrorist in nature and risks hindering the legitimate exercise of fundamental freedoms across the UK.’ Specifically, he stated that the use of counter-terrorism powers on the basis of ‘serious damage to property’ alone, ‘misuses the gravity and impact of terrorism to expand it beyond ... clear boundaries, to encompass further conduct that is already criminal under the law.’”⁹

Most recently, the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association raised her concerns about a ‘systemic erosion of the right to protest in the UK.’¹⁰ She previously wrote, along with the UN Special Rapporteur on Human Rights and Counter-Terrorism, that, ‘Treating “direct action” against property interests as “terrorism” over-classifies the nature of the conduct, contrary to best practice international standards’ and warned that such ‘Over-classification of the conduct of members of an organization as terrorism may result in unnecessary and disproportionate interferences in human rights under international law.’¹¹

While international law does not provide a consistent or comprehensive definition of terrorism, the UN Special Rapporteur’s model definition is considered as the most valid yardstick for assessing whether a definition under national law is human rights compliant.¹² Applying this yardstick globally, Amnesty International has very frequently documented vague and over broad definitions of terrorism, and consequent human rights violations caused by their implementation.¹³ It is for this reason that it is imperative that judicial actors, prosecutors and police are vigilant against counter terrorism powers being used in an unnecessary and disproportionate manner, and are alive to the very real risk of human rights violations.

The use of counter terrorism powers against criminal damage during direct action protest would be grossly disproportionate, not least where these powers are used on those engaging in criminal damage for conscientious motivations aimed at the protection of human rights. The implications for the future exercise on freedom of peaceful assembly, association and expression would be stark.

⁹ <https://www.ohchr.org/en/press-releases/2025/07/uk-palestine-action-ban-disturbing-misuse-uk-counter-terrorism-legislation>

¹⁰ <https://www.ohchr.org/en/press-releases/2026/05/united-kingdom-un-expert-alarmed-systemic-erosion-right-protest>

¹¹ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=30118>

¹² <https://docs.un.org/en/A/HRC/61/52>

¹³ See, for example, ‘Europe: Dangerously disproportionate: The ever-expanding national security state in Europe’ (<https://www.amnesty.org/en/documents/eur01/5342/2017/en/>); ‘Sri Lanka Amnesty International commentary on the proposed Protection of the State from Terrorism Act, 2026’ (<https://www.amnesty.org/en/documents/asa37/0766/2026/en/>); ‘Eswatini: Misuse of the Suppression of Terrorism Act’ (<https://www.amnesty.org/en/documents/afr55/0814/2026/en/>) ‘Russia: Authorities escalate attacks on activists in exile with “terrorism” charges against Anti-War Committee’ (<https://www.amnesty.org/en/latest/news/2025/10/russia-authorities-escalate-attacks-on-activists-in-exile-with-terrorism-charges-against-anti-war-committee/>)