



Crime and Policing Bill | Policy Brief



1. The Crime and Policing Bill¹ seeks to create new offences related to protest and gives the police new, additional powers to address crime and public order issues. This briefing focuses on those clauses within the Bill (Clauses 86, 101 and 123) which we believe will disproportionately affect marginalised communities², including Muslims and political activists. While the Bill aims to enhance public safety, the scope of some of these powers is overly broad, lacking sufficient safeguards to prevent wrongful targeting and the criminalisation of legitimate protest or political expression. As currently drafted, these provisions could lead to arbitrary enforcement, particularly against individuals expressing political dissent or engaging in activities linked to certain causes. Without stronger protections, these measures risk undermining the fairness and effectiveness of the Bill.

The following clauses within the bill have far-reaching implications:

2. **Concealing Identity at Protests (Clause 86):** Clause 86 introduces a new offence of concealing one's identity during protests. This raises serious concerns due to its likely disproportionate impact on marginalised groups, particularly racialised and Muslim communities. Individuals from these groups may wear face coverings for religious reasons, health or for privacy reasons; some might wish to avoid online harassment, such as doxxing. Wearing a face covering of itself should not be treated as criminal behaviour. Current law is sufficient to deal with unlawful conduct at protests, regardless of whether a person's identity is visible. Creating a separate offence for concealing identity does not provide additional protection for public safety or order but risks unjust enforcement against individuals engaged in lawful activity. The provision effectively targets behaviour that is not inherently criminal.
3. The Bill also fails to establish adequate safeguards to prevent misuse. The inclusion of a legal defence offers little practical protection, as in practice it is only considered after arrest. In reality, individuals may face detention at a police station, despite having a legitimate reason for covering their face. This can result in serious and lasting harm - including damage to employment, immigration status, housing, and mental health - even in the absence of any charge or conviction. Once arrested, the consequences are difficult to reverse. The case of Marieha Hussain³, charged with a racially aggravated public order offence⁴ after displaying a placard during a pro-Palestine protest, illustrates the wider risks associated with surveillance and public exposure. Following the publication of her image, she experienced online abuse, intense media scrutiny, and was forced to relocate her family and withdraw her son from school for safety. This underscores how the unauthorised recording and dissemination of protestors' identities can have profound and disproportionate effects.
4. Many protestors conceal their identities precisely to protect themselves from such threats. The rise of doxxing - the malicious release of personal information - has become a significant concern. Article 12 of the *Universal Declaration of Human Rights* states: "*No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks*"⁵. States have a responsibility to ensure such protections⁶, including by regulating platforms that facilitate these harms and restricting the unauthorised capture and distribution of protest images. Clause 86 risks infringing fundamental rights under the *European Convention on Human Rights*⁷ - notably article 8 (privacy) Article 9 (freedom of thought, conscience, and religion), Article 10 (freedom of expression), and Article 11 (freedom of assembly). It also threatens community trust, fuels discriminatory policing, and undermines good community relations - with little evidence of corresponding benefit.

¹UK Parliament (2025). Crime and Policing Bill - Parliamentary Bills - UK Parliament. [online] Parliament.uk. Available at: <https://bills.parliament.uk/bills/3938>.

²Awan, I. (2012). *The impact of policing British Muslims: a qualitative exploration*. Journal of Policing, Intelligence and Counter Terrorism, 7(1), 22-35.

³Cage.ngo. (2025). Marieha Hussain's Acquittal Puts An End to a Politically Motivated Trial. [online] Available at: <https://www.cage.ngo/articles/marieha-hussain-s-acquittal-puts-an-end-to-a-politically-motivated-trial-e3631>.

⁴Garden Court Chambers. (2024). *Protestor Marieha Hussain acquitted of Racially aggravated public order offence after holding 'coconut' placard*.

⁵United Nations (2024). Illustrated Universal Declaration of Human Rights. [online] OHCHR. Available at: <https://www.ohchr.org/en/universal-declaration-of-human-rights/illustrated-universal-declaration-human-rights>.

⁶Alliance for Universal Digital Rights and Equality Now (2023). BRIEFING PAPER: DOXING, DIGITAL ABUSE AND THE LAW. [online] Available at: <https://audri.org/wp-content/uploads/2024/02/EN-AUDRI-Briefing-paper-doxing-04.pdf>.

⁷Council of Europe (1950). European Convention on Human Rights. [online] European Convention on Human Rights. Council of Europe. Available at: https://www.echr.coe.int/documents/d/echr/Convention_ENG.

- 5. Conditional Cautions and Deportation Risks (Clause 101):** Clause 101 extends the use of conditional cautions to individuals with limited leave to remain in the UK, including international students, young people, refugees, migrant workers, and those on family visas. It introduces the possibility of attaching deportation or removal conditions to a caution, potentially without adequate legal safeguards. This provision raises significant concerns, particularly for individuals engaged in political activism or protest. They may be coerced into accepting a caution under duress, without fully understanding the severe immigration consequences, leading to their removal from the UK despite having lawful immigration status. International students and young people are especially vulnerable, often lacking access to legal advice or representation when detained by the police.
- 6.** The absence of clear procedural safeguards, appeal rights, and judicial oversight within the Bill means foreign nationals lawfully present in the UK may be forced to choose between accepting removal or facing prosecution. This undermines due process and raises concerns under ECHR Articles 6 (Right to a Fair Trial) and 8 (Right to Respect for Private and Family Life), as well as ICCPR⁸ Article 13 (Right to a Fair Hearing). Clause 101 is particularly likely to disproportionately affect racialised or politically active communities, who may be unfairly targeted, leading to unjust deportations and removals. This not only threatens their legal rights but also risks embedding structural discrimination in the application of conditional cautions.
- 7.** Clause 101 also carries the potential to deter individuals from exercising their right to peaceful protest. Many arrests at protests currently result in cautions, but if these now carry the added threat of deportation, foreign nationals-especially those with limited leave to remain-may be discouraged from participating in protest activity altogether. The recent Court of Appeal judgment in *Hallam & Ors v Rex* (2025)⁹ reinforces that penalties related to protest actions must be proportionate, ensuring the right to freedom of expression and assembly is not unjustly restricted. Clause 101's provisions could place individuals with limited leave to remain in the difficult position of either accepting a coercive removal condition or facing prosecution, undermining their ability to protest peacefully without fear of disproportionate immigration consequences.
- 8. Proscribed Organisations and Political Expression (Clause 123):** Clause 123 creates an offence for displaying items associated with proscribed organisations within prisons and immigration detention centres. While the clause is limited in scope, it raises significant concerns about its impact on the rights of detainees, particularly those from minority ethnic and religious backgrounds. The risk of disproportionate impact is clear when considered against the demographic profile of the prison population: as of March 31, 2024, 18.2% (15,909 individuals) of prisoners who specified a religion identified as Muslim, according to the HMPPS Offender Equalities Report 2023/2024¹⁰. Provisions of this nature, when applied in custodial settings, risk targeting individuals whose political or religious expression may be misunderstood or mischaracterised.

⁸ United Nations (1966). International Covenant on Civil and Political Rights. [online] OHCHR. Available at: [International Covenant on Civil and Political Rights](https://www.ohchr.org/en/instruments-treaties/instruments-treaties-in-force) | OHCHR.

⁹ Royal Court of Justice (2025). Court Appeal Judgement in *Hallam and Ors v Rex*. [online] Available at: <https://www.judiciary.uk/wp-content/uploads/2025/03/R-v-Hallam-and-Ors-judgment.pdf>.

¹⁰ Ministry of Justice (2024). HMPPS Offender Equalities Report 2023/24. [online] GOV.UK. Available at: <https://www.gov.uk/government/statistics/hmpps-offender-equalities-annual-report-2023-to-2024/hmpps-offender-equalities-report-202324>.

9. Although comparable offences exist in public settings under Section 13 of the Terrorism Act 2000¹¹-where powers are expressly conferred on a constable-the application of Clause 123¹² in closed environments presents distinct operational and legal questions. It is unclear whether prison governors or detention staff will be required to refer cases to the police, or whether they will have discretion to act independently. This ambiguity raises concerns about enforcement protocols and accountability. Moreover, questions remain as to what training such staff will receive to identify and assess whether an item or statement constitutes support for a proscribed organisation. Without sufficient understanding, there is a heightened risk that lawful expressions, particularly those grounded in political dissent or religious observance, may be wrongly penalised.
10. This risk is especially acute in relation to religious symbols and expressions. The Shahada, a central Islamic declaration of faith, is frequently misinterpreted as a sign of extremism by those unfamiliar with its significance. Similarly, the independent reviewer of counter terrorism legislation suggested that protesters chanting 'jihad' can be prosecuted for encouraging terrorism although he also acknowledged that 'Jihad' has benign meanings¹³. These are examples of how ignorance and misunderstandings of this kind, particularly in prison environments, risk criminalising protected forms of expression.
11. Finally, there is a wider concern about mission or function creep. Once such a provision is embedded in legislation, it may lower the threshold for future extensions to other settings, such as universities, colleges, potentially criminalising lawful expressions of belief or dissent. Close scrutiny is essential to ensure that measures aimed at enhancing security do not erode fundamental rights, particularly for marginalised communities.

Recommendations

12. Clause 86: Concealing Identity at Protests

12.a. Remove Clause 86 entirely. The potential discriminatory impact on marginalised communities, especially racialised and Muslim groups, coupled with the chilling effect on peaceful political expression, outweighs any potential benefit to public order.

12.b. If retained, amend Clause 86(1)(b) to read: "...wearing or otherwise using an item with intent to conceal their identity from the police, except where the face covering is worn for legitimate reasons such as religious observance, health, personal safety)." This ensures that individuals who cover their faces for legitimate and protective reasons are not penalised by being arrested and then asked for a defence, while the amended wording targets only those who conceal their identity with the intent to evade police detection.

12.c. Criminalise the malicious publication of identifying information from protests. There should be enhanced protections against doxxing, with clear penalties for those who deliberately expose protestors' identities, which could lead to serious harm, including online abuse and threats to personal safety.

¹¹Legislation.gov.uk. (2019). Terrorism Act 2000. [online] Available at: <https://www.legislation.gov.uk/ukpga/2000/11/section/13>.

¹² UK Parliament (2025). Crime and Policing Bill - Parliamentary Bills - UK Parliament. [online] Parliament.uk. Available at: <https://bills.parliament.uk/bills/3938>.

¹³ Hymas, C. (2023). 'Jihad' chants can be prosecuted as encouraging terrorism. [online] The Telegraph. Available at: <https://www.telegraph.co.uk/news/2023/11/22/jihad-chant-prosecuted-counter-terror-legislation/>.

13. Clause 101: Conditional Cautions and Deportation Risks

13.a. Amend Clause 101 to ensure that revisions to Section 22(3G) of the Criminal Justice Act 2003¹⁴ and Section 103(4) of the Police, Crime, Sentencing and Courts Act 2022¹⁵ prevent the use of conditional cautions in a way that disproportionately targets marginalised communities, including foreign nationals with limited leave to remain. This includes refugees, international students, migrant workers, and political activists.

13.b. Guarantee that individuals are provided with access to independent legal advice and representation before accepting a conditional caution, particularly where that caution may carry immigration consequences. Individuals must be fully informed of their rights and the legal implications of their decision.

13.c. Ensure that any deportation or removal condition attached to a conditional caution is subject to judicial oversight, includes a statutory right of appeal, and complies with formal immigration procedures and human rights obligations. Clause 101 must not be used to pressure individuals into informal or coercive removals without adequate legal safeguards.

14. Clause 123: Proscribed Organisations and Political Expression

14.a. Amend Clause 123 to clearly define what constitutes ‘circumstances as to arouse reasonable suspicion that the person is a member or supporter of a proscribed organisation.’ whilst ensuring legitimate political and religious expression is not wrongly criminalised.

14.b. Clarify enforcement responsibilities and ensure proper oversight, so that prison and detention staff are not left to interpret the law without clear guidance.

14.c. Provide mandatory training for staff in prisons and immigration detention centres on cultural and religious symbols to avoid misinterpretation of religious expressions, particularly expressions like the Shahada.

14.d. Introduce strict safeguards to prevent the extension of these powers to non-custodial settings, such as universities.

About Mlegal

Mlegal is a UK-based non-profit organisation dedicated to protecting and advancing the rights of Muslims and other marginalised communities. Through policy advocacy and legal support, Mlegal works to address systemic issues of discrimination, ensure access to justice, and promote civil liberties for all. We are committed to advancing human rights, particularly the rights to free expression, assembly, and privacy.

¹⁴ GOV.UK (2003). Criminal Justice Act 2003. [online] Legislation.gov.uk. Available at: <https://www.legislation.gov.uk/ukpga/2003/44/contents>.

¹⁵ Gov.uk (2022). Police, Crime, Sentencing and Courts Act 2022. [online] Legislation.gov.uk. Available at: <https://www.legislation.gov.uk/ukpga/2022/32/contents>.

