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## **BOTH ARMS OF THE LAW: INSTITUTIONALISED PROTEST AND THE POLICING OF PUBLIC ORDER**

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### **Two visions of public order policing**

Two, apparently contradictory, views are held by social scientists and other commentators about contemporary public order policing in Britain. By far the most prevalent view (that I will call the 'orthodoxy', for convenience) is that public order policing is an increasingly heavy-handed means of suppressing dissent expressed by the deprived and disadvantaged.<sup>[1]</sup> The image here is of an increasingly paramilitarised police willing and able to confront rioters, pickets and protesters and suppress them by force, rather than using traditional low-key methods (Jefferson 1990). The 1980s and 90s seem to have provided ample evidence to substantiate this vision: the inner-city riots of the early and middle 1980s, violent confrontations on the picket-line, pitched battles at soccer stadia and with 'lager louts', riots in Oxford, Cardiff and Tyneside, confrontations between police and 'New Age Travellers', and violent protests against the poll tax and new roads, not to mention the continuing 'troubles' in Northern Ireland, have all brought the image of the 'riot police' to television screens and newspapers. In the past year there have again been violent confrontations at ports exporting live animals to the continent of Europe and in Bradford, Luton, Doncaster, and Leeds, that suggest that the deployment of police clad in riot-gear is now routine. Added to this are legislative changes designed to 'clamp down' on riots and disorder, principally the Public Order Act 1986 and the public order provisions of the Criminal Justice and Public Order Act 1994, both of which have provoked the fear that basic democratic rights and freedoms are being undermined (Wallington 1984, Greater London Council 1985, 1986; Staunton 1985, Thornton 1985, Driscoll 1987, McCabe, Wallington et al. 1988, Uglow 1988, Robertson 1989, Ewing and Gearty 1990, Puddephatt 1995).

Standing in splendid isolation and apparent contradiction is my own research on public order policing in London, particularly the policing of political protest (Waddington, P.A.J. 1993, 1994a, b). This research suggests that far from being confrontational police seek to avoid 'dying in a ditch': the provisions of the Public Order Act 1986 allowing conditions to be imposed on marches have been used sparingly, no marches have been banned, arrests for any offences committed during protest demonstrations are rare and disorder of any kind rarer still. The police maintain order and achieve a measure of control over demonstrations far more extensive than the law allows through the use of *guile*: they use their social and organisational resources to negotiate arrangements that satisfy their purposes and they control marchers not by heavy-handed riot-control methods, but by manipulation of traffic flow around marches. One is tempted to claim, on the basis of this research, that 'policing by consent' is alive and well and to be found most prominently in the policing of political demonstrations.

## Can these views be reconciled?

Whilst the division of these two views seems stark, the contradictions may be more apparent than real. The analysis offered in *Liberty and Order* (Waddington, P.A.J. 1994b) can explain not only the prevalence of accommodation witnessed by my research but also instances of confrontation and violence to which the orthodox view refers.

Before turning to that, there are a few necessary preliminaries that must be disposed of. These concern reasons why my observations depart so markedly from the orthodox view.

## Methodological differences

The orthodox view is based upon the retrospective reconstruction of a relatively small selection of conspicuous incidents of usually serious public disorder, whereas my research involved contemporaneous observation of the mundane reality of routine public order policing. Obviously, those incidents that come to public attention are a distinctive sub-sample of all public order events selected non-randomly because they are *exceptional* and, therefore, newsworthy. The significant fact that most picket-lines during the miners' strike were peaceful (McCabe, Wallington et al. 1988) can be lost sight of when the strike is viewed from the perspective of Orgreave or the Nottinghamshire roadblocks (Coulter, Miller and Walker 1984, Fine and Millar 1985, Reed and Adamson 1985). An even greater distortion is to generalise from those comparatively rare occasions when some routine 'street policing' erupts into a confrontation and riot. The 1981 Brixton riot might have been prompted by a ham-fisted stop and search (Scarman 1981), but some hundreds of no doubt similar stop and searches had been conducted as part of the ill-fated operation 'Swamp 81' without provoking a similar reaction and many thousands of such stops are conducted each year without sparking disorder.

Moreover, the fact that researchers are compelled to join participants and their various apologists in picking over the bones of a complex event that is past, inevitably draws them into arbitrating over contested accounts. It is difficult enough trying to observe the complexity of a contemporaneous public order operation, but to do so retrospectively seems insurmountable. As Berk has noted, to attribute motives to a riotous crowd is almost entirely speculative since researchers are unlikely even to know who was present at the scene and still less what was going through their minds (Berk 1972). The problems of retrospective reconstruction are no less acute in respect of the police operation. What actually took place between the two constables who stopped and searched the taxi-driver outside S&M Car Hire in Atlantic Road on 11 April 1981 we will never know. All we have is a disputed version in the Scarman Report (Scarman 1981). And disputed versions are all we are ever likely to obtain from such complex and controversial events in which various participants have so many vested interests.

It took the systematic observation of routine police work by sociologists to dispel the misleadingly glamorous image of policing as exciting crime-fighting. Exclusive concentration on a few conspicuous incidents of disorder is likely to prove just as misleading in relation to public order policing. For most officers engaged in policing political demonstrations the mundane reality of public order operations is that of boredom.

## Policing public order versus disorder

A corollary of this methodological difference is that what is being observed and analysed by those who take an orthodox view is different to what I observed and analysed. The orthodox view is constrained to comment upon the policing of *disorder*; an inevitably, heavy-handed business, since it involves the quelling of violence by force. It seems that such police intervention is remarkably similar throughout the world (Gregory 1987), indeed the striking feature of British methods of riot-control has been and continues to be its comparative restraint (Waddington, P.A.J. 1991).

Public *order* policing, by contrast, is motivated largely by the aim of *avoiding* confrontation and disorder. The reason why the use of the powers under the Public Order Act 1986 and arrests generally are so infrequent is to avoid potential confrontation that might spark disorder. There is often ample legal justification for arresting protesters, but senior

commanders actively restrain their subordinates from taking such a course of action for fear of the wider consequences (Waddington, P.A.J. 1993). It is when this strategy fails and disorder erupts that policing tactics change also.

If the policing of public disorder and order are so different, then the opportunities to generalise validly from the one to the other are limited.

## To err is human

The possibility that incidents of disorder may arise from human error should not be discounted. Social scientists would do well to incorporate those two invariant laws of human affairs into their explanations - 'Murphy's Law' and 'Sod's Law'.<sup>[2]</sup> Occasionally, individual officers or the police organisation are likely to 'screw up' and this may spark disorder. Barrie Irving has drawn attention to the importance of the 'cock-up' in criminal investigation (Irving and Dunnighan 1993), and it is likely to play just as significant a part in public order policing. The decision to divide and then push a violent faction of the anti-poll tax march away from the entrance to Downing Street and towards Trafalgar Square (Metcalf 1991) was probably mistaken in hindsight. I must admit that standing in Trafalgar Square when that decision was being deliberated and taken, it did not appear either so unreasonable or likely to cause the Trafalgar Square riot of 31 March 1990. Cock-ups are important and should not be ignored, not least because it would be foolhardy to generalise from a sample of exceptional incidents in which the role of such errors is likely to predominate.

## Unity or diversity?

Apart from methodological distortions, there is a conceptual problem with the portrayal of 'public order policing'. This is the heterogeneity of behaviour captured by such an omnibus term. Just as riots might take a variety of forms, so too might public order operations. Critical variables would seem to be the 'assembling process' and the ostensible purpose for which the crowd has assembled. As McPhail and Miller (McPhail and Miller 1973) have pointed out, crowds might assemble in an pre-planned or spontaneous fashion. There is clearly a world of difference between political protesters gathering on the London Embankment with banners and placards, chanting slogans and making speeches, on the one hand, and young people spontaneously assembling at the site of some unplanned incident, such as a stop and search by police officers. Whilst there may be good polemical reasons for conceptualising the policing of inner-city riots, picket-line violence during the miners' strike and conflict in Northern Ireland as essentially similar (Gordon 1985, Hillyard 1985), it serves only to confuse very different types of incident. Likewise, crowds that assemble to celebrate (although they may cause the police enormous problems) seem essentially different from protest demonstrations and pickets where participants are voicing grievances about which they feel anger and resentment. In short, there might be no single explanation of public order policing *per se*, only explanations of particular types of public order police operations.

## Protest and institutions

It is, therefore, necessary to be clear about what I observed and to identify whether those observations were distinctive, and if so what distinguishes them from the observations of others. What they virtually all shared were a *pre-planned* assembly: they were deliberately *organised* by someone or some corporate body. As such, my sample was intrinsically biased towards activities that were either institutionalised already or amenable to institutionalisation. Firmly institutionalised were events like Trooping the Colour, the Service of Remembrance and the State Opening of Parliament. Arrangements, such as the position of spectators and route to be followed by participants were 'taken down off the shelf'. The parameters of acceptable conduct were clearly delineated for all parties, for example, spectators at the Service of Remembrance were prevented from taking anything into the area immediately around the Cenotaph that might be used to disrupt the two-minute silence and all but emergency police radio transmissions ceased during this period as a mark of respect. But this was simply one pole of a spectrum of institutionalisation. The policing of extremely large

demonstrations, such as that of the TUC's protest against the closure of the coal mines in October 1992 shared many of the characteristics of such an institutionalised event. It too was dominated by shared assumptions about the movement of participants and the parameters of acceptable conduct. The main issues became those of traffic management in the vicinity of the march. Nor was Remembrance Sunday the only occasion when respect was shown to the dead: when the family of Roghit Duggal laid a wreath at the site of his murder during a march against racist violence in November 1992 police officers in the near vicinity were observed to cover their radios with their hands and move out of range so as not to disturb the grieving relatives. When bystanders complained to police about the presence or conduct of demonstrators, senior officers routinely offered a brief homily on the democratic rights of fellow citizens.

In sum, the institutions of democratic protest form the largely unstated background assumptions against which police (and so far as I could tell, protesters) approached many political demonstrations. Those assumptions seemed to consist of an expectation that protesters would restrict themselves to the symbolic expression of dissent designed to appeal to a wider audience. As such, political protest is intrinsically self-regulating if protesters do not breach these institutional boundaries.

## 'Professional protesters' and 'the opposition'

Police stereotypes reflect the influence of these institutional expectations. 'Professional protesters', like the trade union movement, Campaign for Nuclear Disarmament, National Union of Students, and Anti-Apartheid are regarded by police with something approaching affection. They can be trusted to remain within the institutional bounds of democratic protest. 'The opposition', on the other hand, comprise militant left-wing and anarchist groups whose commitment to that institutional framework is at least ambiguous. It is not simply that 'the opposition' are likely to prove violent and disorderly, because amongst their number were counted the militant, but entirely non-violent, gay rights group 'OutRage!'. What 'the opposition' had in common was unresponsiveness to police requests that they 'play the game'. That made them unpredictable and potentially uncontrollable by consensual methods. Whilst these groups eschew established social institutions by their own volition, others find themselves beyond the bounds of institutionalised protest as a result of circumstances beyond their control. Notable amongst these are émigré groups whose unpredictability arises because the police neither understand their cause nor the organisation of protest. For example, police may fail to recognise that a march will pass near premises that are likely to arouse passions and suddenly find themselves dealing with enraged protesters. Many émigré groups are not bureaucratically organised in ways that neatly fit the police organisation and assumptions. For example, protest by Islamic groups is often organised by individual mosques and the seniority of religious leaders may need to be negotiated *in situ* before the march commences, whereas the police expect to liaise with *an organiser* - a single individual who has enduring authority to make and stick by arrangements.

Those whose protest lies beyond institutional boundaries, for whatever reason, are likely to find themselves confronting a more coercive style of policing. First, they will find that the ratio of police to protesters is likely to be higher than for institutionalised protests, where stewards may play a more prominent role. Secondly, 'the opposition' is likely to find that they are subjected to closer surveillance. Thirdly, police are less likely to tolerate departures from predetermined arrangements. However, this is not immutable: Sikh demonstrations have acquired a measure of institutionalisation with police allowing protesters to carry a stipulated number of ceremonial swords at the head of a march and individual protesters to wear ceremonial daggers, despite both being in contravention of the law on offensive weapons.

## Facilitating institutional protest

In myriad subtle ways police actually *facilitate* institutional protest: they help organisers to plan the event, reminding them of arrangements that will enable the protest to go smoothly, putting them in touch with relevant authorities whose permission may be needed to assemble and hold rallies at particular locations, arranging for coaches to deposit and collect protesters before and after the demonstration, and guiding the march through the traffic-clogged streets

of the capital. The more that protesters 'play the game', the more police reciprocate by offering assistance. Thus, as the series of marches organised by the Campaign to Stop War in the Gulf progressed during late 1990 and early 1991 so the police and the organisers became enmeshed in a web of mutual favours. The policing of the NUM protest against pit closures in October 1992 involved the police virtually organising the protest, for example by persuading a reluctant Department of National Heritage to close the roads that traverse Hyde Park. These efforts were consciously made partly in order to restore institutional relations between the police and the NUM that had been strained by the experiences of the miners' strike.

In facilitating institutionalised protest police also reproduce that institutional framework. Each time that a protest march assembles on the Embankment and marches compliantly through Trafalgar Square, along Pall Mall, St. James, Piccadilly and Park Lane, that 'standard route' is further standardised. Social movement theorists have pointed to how states emasculate social movements by inviting subtle inducements to compromise, such as by granting charitable status (McCarthy, Britt and Wolfson 1991). The facilitation of social protest by the police is a similar process: it selectively reduces the costs of social protest for those who 'play the game', thus effectively 'licensing' protest by institutional groups (Eisinger 1973).

## Using institutional pressure

The facilitation of institutionalised protest and its repeated reinforcement has considerable benefits for the police, for it enables them to bring pressure to bear upon organisers and protesters to conform to their wishes. For example, if protesters follow any of the 'standard routes' then traffic management plans to be implemented during the progress of the march can be 'brought down off the shelf' as readily as plans for royal ceremonials. Hence, during the early stages of negotiation police routinely suggested such a route to organisers who seemed willingly to acquiesce - it was simply 'the way we normally go'. If organisers sometimes resisted following such a well-worn route police appealed to their own interests in not antagonising other road-users, thereby implicitly appealing to the institutionalised expectation that protest was an attempt to attract wider support.

These were stratagems that fell on stony ground when negotiating with groups who excluded themselves from the institutional consensus. Thus, during a protracted negotiation with the organiser of an 'OutRage!' march to the Palace of Westminster, police found that attempts to persuade marchers not to enter the Sessional Area were challenged on points of law. When they appealed to the presumed desire of protesters to attract support they were perplexed by the organiser's rejection of such a purpose — a response that displayed this group's strategy of confronting bystanders with exaggerated expressions of homophobic stereotypes (Gamson 1989, Carter 1992). The result was that this march was heavily policed by TSG officers, albeit that police and organisers had agreed that protesters would consent to being arrested at the perimeter of the Sessional Area (Waddington, P.A.J. 1994b).

## The strain towards institutionalisation

The advantages of institutionalisation for the police are such that they seek wherever possible to draw protesters into the institutionalised expression of dissent and will go to some lengths to protect those who do so. This was dramatically illustrated by a march of anarchists who wished to protest at the holding of the 1992 General Election. The police identified the group calling itself the 'Anti-Election Alliance' with 'Class War' under whose banner various disruptive and violent protests had been waged and whom police regarded as instrumental in starting the anti-poll tax riot in Trafalgar Square. Nevertheless, the fact that this group now wished to stage a conventional march met with a positive response. Normal negotiating practices were pursued that are designed to enmesh protesters in institutional constraints. However, this strategy was threatened by the decision of a junior government minister at the Department of the Environment to refuse permission for this group to assemble and later hold a rally in Trafalgar Square. The police protested vigorously to the DoE about this refusal and when they were unable to effect a change of mind announced that they would not enforce the ban. When the anarchists began to assemble in defiance of the ban their leader was approached by a superintendent. The leader greeted the superintendent by asking if he was

to be arrested, the superintendent nonchalantly dismissed the suggestion and matter of factly turned to mundane issues about arrangements for the march. From that moment on, a demonstration that had - at least in police eyes - threatened confrontation became a 'non-event'.

## **The 'trouble' with public order policing**

Institutions make themselves felt at the level of day-to-day policing through the threat of 'trouble'. As Chatterton and others have observed, avoiding 'trouble' is the abiding preoccupation of patrolling constables (Chatterton 1979, 1983; Norris 1989, Kemp, Norris and Fielding 1992). It is no less so amongst commanders of public order operations. 'Trouble' comes in two forms: 'on the job' and 'in the job'. In the public order context, 'on the job trouble' predominantly involves threats to ensuring minimal disruption that can range from negotiating unexpected roadworks to quelling serious rioting. 'In the job trouble' arises from the obligation to account for one's actions, which might include defending a police operation from media criticism to being a defendant in a civil action for damages.

Usually, these twin threats of 'trouble' conspire to deter police from confronting protesters. Confrontation can easily escalate into disorder and riot with the attendant dangers of damage to property and injury to people. Moreover, it will certainly create 'in the job trouble': any disorder must be reported immediately to the relevant Assistant Commissioner and from him to the Commissioner, who in turn reports to the Home Secretary. Beyond that commanders can expect media criticism and the likelihood that they will be subject to an official inquiry that can be career threatening. In the 'heat of battle' officers under their command are liable to commit acts that, upon calm reflection, bring discredit upon themselves and the police organisation. Hence, pre-planning for major public order operations was suffused by the need to ensure that plans would withstand retrospective scrutiny from whatever quarter. Also, every effort was made to ensure that subordinates did not act precipitately in ways likely to cause a riot. Control over protesters was, therefore, exercised by guile: police negotiate with organisers so as 'win them over' and 'the ground' is controlled by the subtle orchestration of traffic flow around marchers.

Thus, one arm of the law accommodates and facilitates protest. It invites protesters to 'play the game'. Yet the law has two arms and the other is its strong arm, used relatively rarely, but also in response to institutional imperative. Whilst the police avoid confrontation, they are unwilling to cede their control of public space to protesters. They intervene with more or less vigour to ensure that protesters remain within the boundaries imposed by the police, usually in the form of escorting officers acting as 'mobile traffic cones'. Considerable attention is paid to keeping marches 'neat and tidy' and the police will vary the pace of the march, by altering the speed of the police control vehicle that heads the march, so as to avoid it straggling too far. If, for any reason, a march gets 'out of hand', police commanders become agitated and deploy reserves to impose cordons designed to re-assert police control over public space.

Of course, it is violence that most clearly challenges police control of public space and a repeated cause of violence is counter-demonstrators who aim to prevent or disrupt an organised and police-facilitated protest. As such, counter-demonstrators lie clearly beyond institutional boundaries and are subjected to the full brunt of police coercion. A good illustration of this occurred during the weekend of 7-8 November 1992 when on the Saturday the Roghit Duggal Family Campaign marched in protest at racial violence in south-east London and on the Sunday the National Front staged their annual march to the cenotaph on the afternoon of Remembrance Sunday. Both marches were opposed by their respective opponents. What was remarkable was the similarity of the policing operations. On both occasions the marches were protected by the police and coercion was directed at the counter-demonstrators. Helicopters clattered overhead and intelligence officers on the ground directed squads of TSG officers to intercept groups of suspected opponents. When counter-demonstrators collected together they were quickly hemmed in by cordons of police. Violence and provocation by counter-demonstrators were met with vigorous action, including arrests, whereas police appealed to members of the organised march not to be provoked and to continue on their way. At the termination of both marches, police intervened to assist marchers to disperse in safety. In order words, the organised marchers were effectively rewarded for remaining within the institutional boundaries and accepting police control of public space, whereas counter-demonstrators were punished for challenging that control.

The strong arm of the law is represented by 'mobile reserves' frequently comprising TSG officers who are equipped with riot-gear should it prove necessary. The more problematic an operation the more likely that these officers would be supplemented by mounted colleagues and the paraphernalia of contingency planning (for details see (Waddington, P.A.J. 1991). For example, in the weeks preceding the Notting Hill Carnival, TSG officers to be deployed as a riot-squad trained at the Public Order Training Centre at Hounslow with 'opponents' throwing real petrol-bombs. However, this is 'insurance' and commanders were anxious that their preparations for forceful response to disorder should not be disclosed to participants - be they revellers at Notting Hill Carnival or political demonstrators. Thus, great caution was exercised in literally keeping such reserves hidden from view (see Waddington, P.A.J. 1994b).

If 'on the job trouble' sometimes compels the police to use its strong arm, so too does 'in the job trouble', for the capacity of powerful institutions to cause 'trouble' for the police leads them to police certain places and events with less tolerance than others. The prominent example is the enforcement of the Sessional Area of Parliament. Compared to the Public Order Act, the Sessional Order passed at the commencement of each session of Parliament by both Houses, is enforced through petty legislation but vigorously upheld by the police (Waddington, P.A.J. 1993). So vigorous are the police in defending the privileges of parliamentarians to unimpeded access to the Palace of Westminster, that they routinely exceed the apparent scope of the law that underwrites the Sessional Area (ss. 52 and 54 of the Metropolitan Police Act 1839). Thus, protesters simply wishing to proclaim their grievance on a placard in Parliament Square will quickly find themselves instructed to remove the offending sign. There was simply no prospect of the police allowing a march of 'OutRage!' protesters beyond the perimeter of the Sessional Area. When the National Union of Mineworkers held a march to protest against pit closures, the police went to some considerable lengths to facilitate a protest in the vicinity of Hyde Park, but coupled this with a major operation to prevent even a non-violent 'invasion' of Parliament Square. The reason for this is the power of parliamentarians to cause senior officers 'trouble': having to 'write paper' to explain themselves.

Other 'troublemaking' institutions include royalty, hence anything that detracts from the dignity of the royal family is firmly prevented. Attempts by 'OutRage!' supporters to demonstrate during the State Opening of Parliament and to hold a demonstration outside the public face of Buckingham Palace both met with total opposition by the police. Likewise, any actions that offends the integrity of foreign embassies, especially those of powerful allies, are likely to meet with vigorous police action. Hence throughout the many demonstrations against the Gulf War, exceptional steps were taken to protect the American Embassy even though it never came under any threat by demonstrators. Police go to considerable lengths to prevent anyone committing acts that will detract from the Service of Remembrance in Whitehall. The need for continued vigilance was impressed upon officers by recalling the occasion when a peace protester had attempted to play a tin whistle during the two-minute silence.

## **Institutionalisation, accommodation and confrontation**

The basis for reconciling my analysis of public order policing with the prevailing orthodoxy should now be apparent. Conspicuous occasions of disorder to which the police respond with heavy-handed suppression are almost entirely uninstitutionalised.

## **Community disorders**

It goes without saying that disorderly gatherings on the street are uninstitutionalised. The assembly is unplanned and the course of events unorganised. They are spontaneous eruptions that are not subject to institutional restraints. This is not to claim that they are 'mindless' or lack any social organisation. There may indeed be patterns in the way that rioters behave (McPhail 1971), but those patterns are not institutionalised and not subject to non-coercive manipulation by the police.

There is more to the lack of institutionalisation of 'community disorders' than the circumstances in which they occur, for their participants too are disproportionately drawn from beyond the institutional mainstream. So much attention has been focused on the supposedly political motives of inner-city rioters, that a glaring similarity across a wide range of disorders

of this kind has been ignored. From the mass 'punch ups' at dance halls in the 1950s, through the 'Teddy Boy' era, confrontations between 'Mods and Rockers', riots involving predominantly black crowds in inner-cities and dump estates, and on to disorders involving 'lager louts', and rioting by mainly white crowds in Oxford, Cardiff, Tyneside, and very recently Luton, Doncaster and Leeds, there remains one constant feature - the almost exclusive participation of *young* people, especially young men. As Bittner (1976) has pointed out, young people enjoy a distinctive status requiring the control of adults. That control has conventionally been enforced through the family, schools and organisations run by adults *for* young people, like youth clubs. Young people gathering on the streets are regarded as potentially out of control and, therefore, subject to police authority. The exercise of that authority is likely to be coercive rather than consensual, since there are few non-coercive resources that the police can deploy. Whereas, police can offer to facilitate institutionalised protest, there are few ways they can do likewise for a group of youngsters hanging around the street. If police authority is resisted, then police are likely to assert their power as 'monopolists of force in civil society' (Bittner 1970). Thence confrontation and disorder become more probable as David Waddington and his collaborators have documented (Waddington, D., Jones and Critcher 1987, 1989; Waddington, D. 1992).

A good illustration of how the policing of non-institutionalised youthful gatherings differs from institutionalised counterparts is to be seen in the policing of soccer spectators. Soccer fans frequently arrive at rail and bus termini to find themselves confronted by barking police dogs and officers mounted on horses attired in riot-gear. They are forcibly corralled and marched to the stadium by a strictly prescribed route. Access is conditional on each fan being searched and is usually restricted to a particular section of the stadium. Throughout the game fans are subjected to close surveillance by closed-circuit television and little tolerance is shown of misconduct. At the end of the game fans may find themselves prevented from leaving the stadium until rival fans have dispersed. 'Away' fans are then marched back to the rail or bus terminus and kept under close scrutiny until they board their transport. Throughout, soccer fans will be subject to stringent laws that significantly interfere with various freedoms (for example, they are forbidden from taking alcoholic drinks into the stadium). All this is *routine* harassment of a section of the population that has been excluded from the institutional mainstream. Soccer fans are regarded as putative soccer 'hooligans' for whom such coercion is deemed to be appropriate (Waddington, P.A.J. 1989).

Whilst youth predominates as an explanatory variable, race cannot be ignored. Clearly, racial minorities are also outside the institutional mainstream of a class stratified social order (Lea and Young 1982). But if it is true that ethnic minorities find it difficult to exert influence through political institutions organised around employment relations, it is equally true that police have few institutional resources that they can manipulate to secure the peaceful expression of political dissent by those minorities. Whilst ethnic minorities remain excluded from institutional channels of political influence, some modest steps towards inclusion can be detected. The introduction of local consultation committees (Morgan, R. and Maggs 1985, Morgan, R. 1987, 1989) and lay visitor schemes (Kemp and Morgan 1989, 1990), although lacking the formal structures and powers that many critics would like to see, nevertheless represent an attempt to channel the grievances that were exposed by the Scarman inquiry (Scarman 1981) into institutional channels. Moreover, the recognition of racial violence towards ethnic minorities as a serious social problem (Home Office 1981, Home Affairs Select Committee 1986) has created a 'legitimate' grievance about which campaigners can protest. Protest demonstrations against racial violence allowed the police the opportunity of facilitating such forms of expression and thereby reinforcing the institutionalisation of protest.

Perhaps the most conspicuous example of institutionalisation, however modest, has been the recent history of the Notting Hill Carnival. Although ostensibly a Caribbean-style street festival, this event has long-held connotations of 'resistance through ritual' (Gutzmore 1978, 1982; Cohen 1980, 1982; Pryce 1985, Jackson 1989). Serious rioting at the 1976 Carnival prompted the Metropolitan Police to take a significant step towards paramilitary riot-control (Waddington, P.A.J. 1991) and riots also marred the Carnival in 1987 and 1989. Following the disorder in 1987 Paul Condon (later Sir Paul Condon, Commissioner of the Metropolitan Police) and then a Deputy Assistant Commissioner responsible for the part of London that includes Notting Hill, encouraged the formation of a Carnival Support Group. This brought together various interested parties, including police, Carnival organisers, local authorities, the Home Office and residents' groups, to discuss and make arrangements for each annual Carnival. The Support Group meets virtually throughout the year in open forum and considers



*inter alia* many of the policing arrangements for the Carnival. Carnival organisers and police sign a formal agreement setting out key arrangements, which though it has no legal force has enormous moral authority. Coincidental with these developments has been the creation of the Notting Hill Carnival Enterprises Limited as organisers of the Carnival. The stated aim of this new management company is to transform Carnival from a rebellious street festival to a commercially viable family-centred celebration of Caribbean art and culture. If successful, this would repeat the process through which fairs were transformed from riotous occasions to institutionalised leisure pursuits through the influence of commercial pressure (Cunningham 1977).

One variant of community disorders has been confrontations between police and what has variously been described as 'the Peace Convoy' and 'New Age Travellers' (National Council of Civil Liberties 1986). Certain provisions of the Criminal Justice and Public Order Act are aimed explicitly at curbing the activities of such groups (Malyon 1995). However, this again simply perpetuates a long established pattern of harassing those whose existence is not bounded by institutionalised patterns of living. It should come as no surprise that the law and the state favour property owners against the propertyless.

## Picket-line violence

Some might find it strange, not to say bizarre, to hold out protests against racial violence as opportunities for facilitating institutional protest. Certainly, the march in protest against the BNP 'Bookshop' in Welling in 1994 resulted in confrontation and violence between police and protesters. However, institutionalisation is a process, not a state, and it can be reversed. A good illustration of the processual aspects of institutionalised protest is to be found in the history of picketing. Geary (1985) has described the historical transition from 'stoning and shooting' to 'pushing and shoving', but, as he acknowledges, this was not a unilinear or unidirectional process. Whilst the trade unions were being actively institutionalised, contemporary events reveal the uneven progress of that process. The perceived threat of Bolshevism that accompanied the police strike of 1919, particularly in Liverpool, was sufficient to prompt the government to sail *HMS Valiant* into the mouth of the River Mersey and train its 12 inch guns on the city (Weinberger 1991). Less dramatically, the early 'hunger marches' organised by the socialist National Unemployed Workers Movement were the object of close police surveillance and official harassment. It was not until the Trade Union Congress embraced hunger marches that they came in from the institutionalised 'cold' and received official tolerance. At the same time, the government was continuing to develop civil contingency planning designed to break national strikes, by force if necessary (Morgan, J. 1987)

The heyday of institutionalised labour disputes was undoubtedly the 1950s, when picketing would threaten little 'trouble' for the police. Pickets were almost entirely symbolic, relying for their effectiveness on union solidarity. There was no need forcibly to close premises and so police could comfortably facilitate picketing by stopping vehicles entering premises. The process begins reversing during the middle 1960s when the Labour Government identified strikes as a significant cause of Britain's industrial decline (Donovan 1968), attempting unsuccessfully to impose legislative restrictions towards the end of its period in office (Department of Employment 1969). The 1970-74 Conservative Government continued the process of de-institutionalising labour disputes through a series of measures including the establishment of an Industrial Relations Court and attempts to impose central pay norms. The election of March 1974 was fought in the context of a strike by miners and the imposition of a three-day week, with the Conservatives adopting the slogan of 'Who Governs Britain?'. The 'Social Contract' of the last Labour Government sought to contain industrial unrest by institutionalising trade unions to an unprecedented extent, but it too collapsed amidst acrimonious strike action during the 'Winter of Discontent'.

The Conservative Government of Mrs Thatcher did not unilaterally de-institutionalise labour relations, but *did* significantly continue that reversal of the institutionalisation of trade unions that had typified the first half of the 20th century. A series of Employment Acts designed incrementally to weaken organised labour, the exclusion of trade unions from government decision-making and, perhaps most importantly, the abandonment of a wide range of industries to the rigours of the market, all set the scene for industrial conflict. The steel strike, the *Warrington Messenger*, the year-long miners' strike, and finally the dispute involving *News*

*International*, all saw major confrontations between pickets and the police (Downing 1982, Hartley, Kelly and Nicholson 1982, Coulter, Miller and Walker 1984, National Council for Civil Liberties 1984, 1987; Fine and Millar 1985, Reed and Adamson 1985, Reiner 1985, Sunday Times Insight Team 1985, The Police Monitoring and Research Group 1987, McCabe, Wallington et al. 1988). However, confrontation was not universal: for example, the miners' strike was in some areas policed in a manner not very different from the ritualised 'pushing and shoving' that had become the established pattern over the preceding century. According to one account (Leonard 1985), this was due to the continuation of close collaboration between strikers and the police. It was notably in South Yorkshire that conflict was greatest and it was here also that communication between police and the NUM was noticeably poor (Wright, P. 1985, Waddington, D., Jones and Critcher 1989). In the absence of communication and the corresponding opportunity to use non-coercive methods, the strike in South Yorkshire would threaten 'trouble' for the police who predictably resorted to the 'insurance' of coercive might.

However, there is another respect in which strikes create 'trouble' - their 'political' status. Much has been written about the political dimensions of the miners' strike in particular (Sunday Times Insight Team 1985). Yet, although especially heightened, the political ramifications of this strike was not at all unique. Since the formation of the Triple Alliance, with its potential for paralysing industrial production nation-wide, national strikes in key industries have been regarded by a succession of governments as a major political threat deserving special measures (Jeffery and Hennessy 1983). There is no need to search out the hidden hand of government influence operating covertly, by declaring the strike to be a threat to the national interest (even if the declaration of a State of Emergency was avoided) the government dug a proverbial ditch a mile wide and invited police commanders to 'die' in it. If the police failed to contain the strike, a massive amount of 'in the job trouble' could be guaranteed. Hence, the Nottinghamshire coalfield was elevated to a status comparable with the most 'vulnerable premises' in central London and the passage of strike-breakers to and from work became as inviolate as a royal ceremonial.

The violence witnessed on various picket-lines during the 1980s did not presage a transformation in policing style. De-institutionalisation simply changed the costs and benefits of pursuing non-confrontational picketing and policing. For unions, the cost of continuing to 'play the game' was to stand impotently by and watch their industries annihilated. For police there was the potential for significant 'trouble' both 'on the job' and 'in the job'. With the process of institutionalisation thrown into reverse, so both police and pickets resorted to an earlier confrontational relationship.

## **Political extremism**

The other source of public disorder in recent years has been overtly political protest, most notably confrontations between neo-fascist groups and their opponents, and protests involving peace campaigners, environmental activists, and most recently those opposed to live animal exports. Each, in their own way, illustrates the limits of institutional protest.

Confrontations between neo-fascists and their opponents have been a feature of British political life since the 1930s. What is remarkable is that throughout this extensive period right-wing extremism has not been institutionalised into British politics. Mosley's fascists were regarded as a public order menace that needed and deserved legal regulation (Thurlow 1987, 1993). Their successors in the National Front and British National Party continue to enjoy only opprobrium, amongst operational police officers I heard them routinely dismissed as 'away-day soccer hooligans'. They have, however, been more successful at exploiting institutionalised protest based upon how demonstrations are conducted and ignoring the cause that is being promoted. Throughout the 1970s, the National Front was able to stage provocative marches through racially sensitive areas and receive the effective protection of the police whilst doing so, because they posed as demonstrators exercising their democratic rights opposed by counter-demonstrators seeking to prevent the exercise of these rights. This reached its apogee with the confrontation in Southall during which Blair Peach was killed, apparently by police officers during a baton-charge against a violent crowd (Dummett 1980a, b). It was against this background that parliament legislated to enable police to impose conditions on marches and assemblies that were intended to intimidate others (Home Affairs Select Committee 1980, Home Office 1985, Home Office/Scottish Office 1985). Both prior to

and since the passage of the Public Order Act 1986 the National Front has borne the brunt of legal restriction on its marches, not least because the police feel that its strategy of ostentatiously conforming to the letter of law to secure the protection of the police from its opponents leaves it particularly vulnerable to this type of control. As noted above, the growing practice of marches protesting at racist violence has reversed the normal roles of demonstrators and counter-demonstrators, so that neo-fascists now find that they are suffering coercive police methods designed to protect marchers.

Neo-fascists are not the only extremist groups that find themselves vulnerable to police methods reserved for those beyond institutional boundaries. As Tarrow notes (1989), most 'protest cycles' are accompanied by 'early risers' - militant factions that devise innovative methods of protest which wrong-foot the authorities and create the turmoil that characterises the early stages of the cycle. This has been notably a feature of environmental politics and the animal rights movement (Lange 1990, Dalton 1995, Garner 1995). These groups deliberately place themselves beyond institutional boundaries in order to maximise disruption and command public attention. An inevitable corollary of such a strategy is to be unamenable to institutional restraints and, therefore, vulnerable to coercive police strategies.

It might appear absurd to include opponents of live animal exports amongst extremist political groups, after all the bedrock of this campaign appears to be the middle classes. However, one characteristic of militant protest is that it is instrumental rather than expressive, and thereby lies beyond the boundaries of institutionalised protest. Opponents of live animal exports who go beyond waving placards and chanting slogans to physically obstructing vehicles are adopting a mode of protest similar to that of early trade unionists who sought physically prevent continued operation of strike-bound premises by attacking strike-breakers and destroying plant (Geary 1985). Like those early trade unionists, contemporary instrumental protesters also experience coercive policing.

## Conclusion

This paper has sought to contextualise public order policing in terms of the institutional framework within which it takes place. The more institutionalised a public gathering is, the more policing practice facilitates it. On the other hand, public gatherings that lie towards the opposite pole are vulnerable to coercive policing. Institutional pressures are felt by the police as 'trouble': disorder challenges police control over public space and the violation of sensitive locations and occasions generates 'paper'. But institutions protect protest activity that falls within its boundaries: police take for granted that groups have a democratic right to express dissent and resist attempts to restrict that right even by government ministers. Indeed, routine public *order* policing is designed to facilitate the institutionalised expression of dissent and thereby to repeatedly reinforce those institutional boundaries.

Hence my analysis and that of the orthodox view are perfectly reconcilable: the conspicuous occasions of disorder and coercive policing to which that orthodoxy points are distinguished by their lack of institutionalisation. The mundane reality of public order policing that I observed was equally distinguished by the prominence of institutionalised forms of activity.

The question that this reconciliation leaves unanswered is what the future holds. Dunning et al. (1987) have shown how public disorder declined during the early years of the 20th century, but has recently displayed signs of increasing once again. There is little doubt that the institutionalisation of class conflict was responsible for the significant decline in disorder associated with elections and industrial disputes. The recent increase in disorder suggests that those institutions are showing signs of strain. The question is whether institutions are capable of changing to accommodate new social formations and novel political and social issues. Institutionalisation is inevitably incomplete at any particular moment, so the real question is whether these signs of strain are simply a reflection of adjustment in the institutional framework, or do they presage long-term deterioration in institutional controls. There are reasons for both optimism and pessimism. The optimist can rightly point to the cost-effectiveness of institutionalising conflict compared to its suppression. Institutionalising labour disputes was not only successful in reducing overt conflict in Britain, but proved equally successful in the United States (Taft and Ross 1979). Pessimists, on the other hand, draw our attention to how contemporary social and economic shifts are leading to the progressive erosion of institutional constraints that are reflected in increasing levels of crime (Lane 1992) and, one might add, disorder.

## Notes

1. This orthodox view is enormously popular and subscribed to in passing by many writers and commentators. Amongst the most prominent exponents of this orthodoxy are the following: (Bunyan, 1976; Ackroyd, Rosenhead and Shallice, 1977; Wright, S., 1977; Rosenhead, 1981; State Research, 1981; Cowell, Jones and Young, 1982; Hewitt, 1982; British Society for Social Responsibility in Science, 1983; Manwaring-White, 1983; Benyon, 1984, 1987; Fine and Millar, 1985; Scraton, 1985; Benyon and Solomos, 1987; Gaskell and Benewick, 1987; Waddington, D., Jones and Critcher, 1987, 1989; Brewer, Guelke et al., 1988; McCabe, Wallington et al., 1988; Northam, 1988; Waddington, D., 1992). [\[Back to text\]](#)
2. Murphy's Law states: 'What can go wrong will go wrong'. Sod's Law states: 'When a piece of bread is dropped it will land butter-side down'. [\[Back to text\]](#)

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