Law and order: what can we expect from an incoming Labour government?

Kirsten Forkert talks to Kevin Blowe, campaigns coordinator of Netpol

A Starmer-led government is unlikely to deviate from the mainstream-constructed consensus on policing

Kirsten Forkert: *Could you tell us something about the history and current activities of NetPol?*

Kevin Blowe: Netpol - the Network for Police Monitoring – is a coalition of organisations that liaise together on monitoring police activities. It began in 2009, in the aftermath of the big anti-capitalist protests at the time of the G20 summit in London. At one of the protests, Ian Tomlinson, an *Evening Standard* newspaper seller, was struck by a police officer and soon afterwards died, and this led to a long campaign to determine what had happened and seek justice for Tomlinson's family. I was involved in the Newham Monitoring Project, based in east London, which was supporting Tomlinson's family, and NMP was one of the groups that subsequently came together within the network. At that time there were a number of other groups involved in issues around policing. There was a legal team for the Climate Camp, which had been involved in the demonstrations. And there was also a long-standing campaign/legal/defence and monitoring group that had been

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around since the Trafalgar Square poll tax riot of 1990; and there was a separate legal crew that was working with the Aldermaston Women's Peace camp. But there hadn't been an attempt to bring all those organisations together. Netpol tried to do that, and also, crucially, to straddle the gap between the policing of protests and the policing of communities - because for a lot of people, when they go to demonstrations it's the first experience they have with oppressive policing, but for a lot of other people it's a routine experience. You leave the demonstration, you go back to the community, and you face harassment and intimidation all the time, right? That strict division between the policing of protests and policing within communities didn't make any sense. So we tried to work together. Over the years, a lot of the focus has been on protest, because some of the key constituent organisations include Green and Black Cross, who are legal observers on demonstrations, and groups that support people who are self-representing in court. Newham Monitoring Project, the group that I was involved in, no longer exists, but we're still doing work around policing and local communities.

One of the conclusions that came out of the Kill the Bill movement that emerged from 2020 to 2022 in opposition to the Police, Crime, Sentencing and Courts Bill, was the need, when it wasn't possible to 'kill the bill' - which was always going to be a huge ask given the government had a massive parliamentary majority - to focus on local groups, particularly local Copwatch groups. And so I've been trying to pass on my own experiences of nearly thirty years, a lot of it involving work in Newham and other parts of east London, some of it involving support for families who've experienced death in police custody. For ten years I was Secretary of the United Families and Friends campaign. As well as Ian Tomlinson, another significant case was the death of Jean Charles de Menezes at the hands of armed police in 2005.

Both of these cases have some bearing on what we can potentially understand about the way that Keir Starmer is likely to approach policing, protest and the criminal justice system, despite Starmer's reputation of having been a human rights lawyer, and his role as Head of Chamber of Doughty Street Chambers, and having some understanding of human rights. Starmer was the director of the Crown Prosecution Service at the time of Ian Tomlinson's death, and in 2010 announced its decision not to prosecute the police officer concerned; and he also was DPP in 2009, when the CPS reaffirmed its decision not to prosecute officers involved in the shooting of Jean Charles de Menezes.

Could you say a little bit more about Starmer's history as Director of Public Prosecutions? There also was the case of Alfie Meadows, who was severely injured at the 2010 student protests on tuition fees, and was subsequently prosecuted three times for violent disorder. From what I understand, as DPP, Starmer produced legal advice stating that the harsh treatment of protestors was in the public interest?

Some of the subsequent prosecutions of Alfie happened after Starmer had left the role as DPP, but certainly there's an identifiable trend. Starmer started off as a human rights lawyer, and was seen as someone who would continue in the broadly liberal approach of his predecessor at the DPP, Ken Macdonald. What then became obvious was that Starmer was very much an establishment man, despite his human rights law background. To provide some context - we operate a lawyers' list as part of our work, and it's based on recommendations from activists and campaigners around the country about lawyers who they've worked with, who they've felt really helped them. These lawyers are not necessarily the most famous people, they're people who do the work, but, more importantly, they understand the purpose of human rights law. And they understand that people are prepared to put themselves in a position where they may be arrested, and understand why campaigning is important. You can be a 'human rights lawyer' even without this understanding. But a *good* human rights lawyer will understand the purpose of human rights law. Keir Starmer built up a reputation, as all lawyers do, on the back of his cases. But the real test was when he was in a position to actually do something, as DPP, and the answer can be seen, for example, in the initial refusal to prosecute in the case of Jean Charles de Menezes, and the refusal to prosecute in the death of Ian Tomlinson.

In the Tomlinson case, the decision was justified for absolutely spurious reasons, including on the basis of contested medical evidence - despite the fact that one of the pathologists involved in the case was subsequently fined. Ian Tomlinson's family was forced to go through the process of seeking judicial review in order to eventually have a trial. I attended this trial, and I thought that the CPS's presentation of their case was utterly half-hearted. And there are other examples, not just in the student protests, although these are significant, but also in the DPP's responses to the riots in 2011 following the police shooting of Mark Duggan - and what those responses convey about attitudes to justice, such as the use of night courts and so on. Then there is the first investigation into the Spy Cops scandal, commissioned by Starmer and led by Sir Christopher Rosen, which was given the very narrow remit

of investigating Mark Kennedy and his role in the Ratcliffe-on-Soar power station cases. This was essentially used by Starmer as an excuse to argue that the power station incident had been just a one-off case, rather than evidence of systematic abuse. Even the subsequent, currently ongoing - and largely useless - public inquiry into Spy Cops has acknowledged that the situation was much worse than that. And Starmer was also responsible, in 2012, for issuing guidance about people wearing masks to protect themselves from intensive surveillance as somehow being worthy of increased surveillance.

What this tells us is that Starmer has no instinct at all, despite his human rights lawyer background. He just doesn't get the fact that there is a massive imbalance in power between the individual and the state. And worse, when in a position to adjudicate on where that balance lies, as DPP Starmer always came down on the side of the state, every single time. And I think that probably tells us a lot about how Labour will behave if they are elected. In terms of Netpol's position, we don't have any skin in that game: a lot of the people involved in our organisation are anarchists anyway. The government of the day will be cracking down on people's rights. If Starmer gets in it'll only be more of the same.

The other test is Labour's reaction to the Police, Crime, Sentencing, and Courts Act, and the Public Order Act, which have some genuinely dreadful and far-reaching consequences. Some of their measures are literally untested, but, for example, they include serious disruption prevention orders, which ban people from going on protests. Any reasonable, moderate social democrat should be in the position of saying, 'isn't this an affront to human rights, and shouldn't this be rejected?' But Labour hasn't said that. I think everybody involved in the kind of work that we do assumes that, although some of the culture war stuff might go away - which was one of the worst aspects of Suella Braverman's stint in office - she was unquestionably the worst British Home Secretary in about two hundred years - to expect that there will be anything like a serious pushback, or an attempt to reduce some of the overreaching powers that the state currently has, particularly in relation to the policing of protest, is wildly over-optimistic. There are organisations currently thinking about how they're going to lobby Labour on its manifesto, and we're not involved in that, because it's not really our area of skill - but my personal view is, what's the point?

We should also remember that the last time Labour was in power they brought in Anti-Social Behaviour Orders (ASBOS), and there also was Prevent. I live in Birmingham and Prevent had some very negative impacts in the community, such as the installation of CCTV cameras in predominantly Asian, Muslim areas. How might we see a Starmer government within this longer perspective, beyond his personal pro-establishment politics?

From 1997, one of the tendencies that Labour has consistently displayed has been a deep streak of authoritarianism. There were more pieces of criminal justice legislation passed before it left office in 2010 than in the eighteen previous years of Tory rule, including under Thatcher. Crucially, the immediate response of every Labour Home Secretary to anything that comes up, particularly when it involves pressure from the Tory press, is to say that we need new laws. But to keep piling on more and more legislation is an invitation for that law to be really bad, or to massively overreach. This even includes legislation that, on the face of it, seems to be potentially important and is seeking to address a particular issue. For example, the Prevention from Harassment Act, which came in soon after Labour came into government, was intended to protect women who were facing harassment from former partners. However, in practice, the legislation ended up being used to protect companies from people who were trying to raise allegations of harassment. This is in part because of the way that the legislation was drawn up, with no consideration at all of anything other than the imperative to have a law. ASBO orders, introduced by New Labour in 1998, are yet one more example of a legislative response to moral panics about antisocial behaviour at the end of the last century. But Prevent is ultimately the defining legacy for Labour, along with the War on Terror. The intention was to legislate for a very small number of people who might have sympathies towards actual terrorist activities, but its measures quickly became applied to entire communities, and then were applied in an even wider sense. For example, Prevent restrictions were applied to anti-fascists, because of some particularly militant anti-fascists who favour direct confrontation with the far right. They were also used against opponents of fracking. And Prevent is now increasingly being used against other environmental campaigners. The Prevent legislation illustrates the danger of thinking, 'we have a problem and what we need is more punishment, and we need the state to be bigger and take on greater powers'. I can't see really that anything has been learned from that period, or from the massive overreach of the current Conservative government, such as the broad

remit of the Police, Crime, Sentencing and Courts Act. I don't think Labour has learnt a damn thing.

Why do you think nothing has been learnt?

Apart from the brief period of Jeremy Corbyn being Labour leader, there has been a disconnect with movements that are seeking some form of social change. I've met Corbyn a few times, though I was never a Labour Party member, and never part of that 'Oh Jeremy Corbyn' stuff. But at least with Corbyn there was an instinctual understanding of movements and networks within communities who were organising to bring about change, who were going to face opposition from the state; and of the need for Labour to make decisions about where it positioned itself in relation to those movements and networks. Corbyn still called for more cops at the 2017 general election. But there wasn't any question about whether he understood the motivations for campaigners, as he's been one most of his life. Starmer isn't a campaigner; he's essentially an insider within both the legal profession and Westminster. And now, obviously, he's on the verge of becoming prime minister. This means that he sees change as happening within committee meetings, involving discussions amongst people with real power, without involving anyone beyond that. It comes back to the point I made before about the dangers of not understanding why human rights are important, or why people choose to exercise those rights. If you don't have that understanding, then all the issues around giving the state more power over the public are not a concern.

Is there also an electoral calculus for Starmer: does he think that 'law and order' rhetoric will go down well with certain strategic sections of the electorate, such as the 'Red Wall' or swing constituencies?

The Westminster parties pick and choose the ground on which they want to fight, and much of that is influenced by some of the worst tabloid newspapers on the entire planet. And they all have access to polling information about the issues that people care about, such as the economy, the National Health Service and, increasingly, climate change. But there has also been a manufactured outrage about groups like Just Stop Oil and Insulate Britain. And Labour has made a choice in seeking to fight on essentially right or far right battlegrounds around law and order.

I'm not convinced that those in the so-called 'Red Wall' seats are any more fervent in supporting the police than in other parts of the country.

There's a common thread running through the whole country, which is that people today are aware that the police are pretty much useless, or even an active danger, particularly in London, as seen, for example, in the reaction to Sarah Everard's killing. And yet, the agreed establishment position is that the solution to every problem is to crack down on it. There is also an agreed media position that those who don't support more cops, and don't have sympathy for those armed officers who decided to put down their guns because of concerns about being prosecuted, are somehow soft on crime and criminals. I think that's the position that, by and large, Labour has opted for. It operates within a vacuum, sealed off by decisions about what policies it is acceptable or unacceptable to discuss - and this is partly to do with the terrible political culture we have. Corbyn also operated within that political culture, though in many ways he was better, because he was willing to ask questions. However, he was also, ultimately, unwilling to ask the central question about whether the police are the appropriate people for the wide range of situations they are currently called on to deal with. If we look at one of the core parts of Netpol's work - dealing with protests - most of the safest protests that I've been on have been the ones where there's been very, very few cops. And the ones that have been the most dangerous have been the ones where there's been overwhelming numbers of police. What does that tell you? I assume that there's an acceptance within Labour, much of it reinforced by the media and think tanks and so on, that this is the proper way to behave as a Westminster party. Corbyn bought into that to some extent, but Starmer absolutely buys into that, primarily because that's already where his instincts are.

The police have certainly lost credibility, if you think about the cases that you've mentioned, as well as others such as Chris Kaba and Stephen Port. And, at the same time, more than 90 per cent of crimes don't result in a charge or a summons, according to the Home Office's own figures. But this appears to not have registered with Westminster politicians.

The issue is that their starting point is supporting a right-wing position, and then they bend according to which way the media wind blows. If you think about the lead-up to the introduction of the Police, Crime, Sentencing and Courts bill - at first Labour wasn't going to oppose it. And Labour also didn't really oppose the

legislation on covert human intelligence sources that was introduced three or four months beforehand, which was a draconian piece of legislation. In part this is because they were worried about how that might be perceived. It took the beating up of women protesting about the murder of a fellow Londoner by a serving Metropolitan Police officer - using the alleged justification of Covid powers to prevent public assembly - to make public disquiet even more evident - and more visceral - and this then made it possible to pressure Labour into shifting on the Police, Crime, Sentencing and Courts Bill. Their response then was to oppose most of it - but, crucially, when they were asked after it was passed and became an Act whether they would repeal it when they came into power, the response was incredibly vague. It wasn't 'yes we will' or 'no, we won't'. It was a load of waffle that basically said 'no, we won't', but also signalled that they didn't even want to discuss it. Some would argue that Labour will be better than the Conservatives when they're in power. This has been generally true in the past, but it also depends on how 'better' is defined. If people are still being sent to prison for protesting against catastrophic climate change, or if they're still being sent to prison for protesting about the right to jury trials, or if there is still this Star Wars thing about anybody who wears a mask being seen to be liable to cause violence, then I can't see what better means in those contexts. It's not just about whether they're nicer people, it's about whether the public can exercise their rights.

It has been suggested that the Policy Exchange thinktank played a role in drafting passages of model legislation that then became part of the Police, Sentencing, Crime and Courts Act, and that in this they were influenced by their links with fossil fuel companies.

I thought some of the claims about Policy Exchange were overstated. Coming up with policy proposals is the sort of thing that right-wing think tanks do on a regular basis. In my understanding, most of the lobbying came from the senior levels of the Metropolitan Police. They were faced with the problem of disruptive protests and wanted a shedload of extra powers. They saw some of the ideas that were already on offer, but they also held their own discussions, including a major round table held in 2019, which involved the Home Office, and a large number of police representatives, lawyers, and others, who between them mapped out a number of recommendations for potential options for different pieces of legislation, a number of which later appeared in the Police, Crime, Sentencing and Courts Act,

and more of which ended up in the Public Order Act. And we know this is the case because the meeting is mentioned in a thematic review that was conducted by HM Inspectorate of Constabulary. The connections made between fossil fuel industries and anti-protest legislation miss the point, which is that the police are political actors, and they are seeking an expansion of their powers to deal with a particular situation, and have no concern about why people take to the street, or take part in protests. It's just narrowly framed in terms of the maintenance of order.

Given the threat of catastrophic climate change becoming ever more apparent (and with government being unwilling to take this seriously), will people increasingly feel that mainstream democratic channels are ineffective, and protest and direct action are their only options? And will we see heavier crackdowns?

The answer to that is yes, but that's partly because I don't accept the idea that the climate change threat can be solved by a few more green policies. The idea of net zero by 2050 is itself absolute nonsense - we need absolute zero to seriously address the issues. The problem is that no government, regardless of political party, is going to confront the fact that the state is deeply entwined with the extractive economy. Support for fossil fuel industries is at the heart of what the state is. They can introduce a bunch of policies that seem to shift towards solar energy and wind power and so on. But they're going to be very reluctant, and much of the process is going to be driven by energy companies who are working out where they can continue to make a profit. It's all going to go too slowly and what they are doing is already way too late. I'm not one of those people that subscribes to apocalyptic visions of the future. Because I think addressing the issues is possible - and that climate doomism doesn't accept the possibility that we can seize control of our own destiny. However, I do think it's going to go too slowly. A Starmer government will always be driven by the same instincts of wanting to be seen as part of the establishment, which means being quite cautious and going very slowly. So people will continue to protest. And it appears that the next Labour government, based on who is involved and what they have said, is likely to have the same response to the police - when they say that they need XYZ to deal with a given situation, the government will give it to them. They could still, potentially, do the right thing. But they could also look around at how governments in other parts of Europe are cracking down on protests, such as forcing people to register and seek formal

permission for demonstrations, making it easier to push for conspiracy charges.

What kinds of new measures for policing protest do you think we are likely to see?

We'll be seeing a rapid growth in the companies that provide the police with technologies such as live facial recognition. All forms of facial recognition are deeply problematic because they involve the mass collection of data. It's not just the technology for recognising faces, it's the databases that sit behind it. And there is also an issue about retrospective facial recognition, which enables searching through footage that has already been captured. This is linked to the fact that the police are currently - probably illegally - keeping huge numbers of images of people who have been previously arrested but never been convicted, or have faced trial and have been found not guilty. However, live facial recognition is the real test for a Labour government. The technology currently doesn't work very well, but it will improve. Live facial recognition is going to be essential for implementing any future legislation seeking to impose serious disruption prevention orders on key organisers, because they will be targeting quite a small number of people. One worrying issue is a lack of transparency and accountability in their collecting or retaining of the data.

How will this relate to legacies of institutional racism in the police, and recent controversies about racism in the design and application of these technologies? Will people from particular backgrounds and communities be targeted more by facial recognition technologies?

This is connected with the introduction of AI. The great thing about CCTV for the police used to be that they could put CCTV cameras on every street. But if the state doesn't have enough people to search through all the material they collect, it's of limited value. However, if AI can perform this work at 10,000 times the speed of a human, the system becomes much more frightening. To return to electoral politics - under a Conservative government these technologies would continue to become exponentially more expansive and less accountable, so the question for those who want to claim that Labour's approach in government will be different is: how will their policy be different? Labour has made noises about welcoming the efficiency of technology for criminal justice purposes, and the industries and companies producing this technology will be actively lobbying Labour. BAE Systems and

the like are always present at the Labour Party conference. Under a Labour government, there may be noises made about the importance of human rights. And, possibly, there will be fewer attacks on judges when there are legal challenges - which is what I mean about there being less culture war nonsense. But I still don't feel that a Labour government will provide a greater degree of protection to people who are vulnerable to overreaching state power, and I think that's probably one of the big differences between Labour since 1997, including now, and Labour positions in the past.

Could you say more about what preparations your organisation and others like it are making for putting pressure on a future Labour government?

One of the approaches we have taken is that, rather than focusing on individual policies, we need to look at the protections for our right to protest that we already supposedly have in the Human Rights Act - because the Human Rights Act is only effective to the extent that it's adhered to, and one of the big problems with the right to demonstrate is that freedom of assembly is a qualified right. And the starting position of the police is not to consider their obligations under international human rights law to protect that right, but to find ways around it. And the typically British response is to be as vague as possible about what they're going to do. You may have heard of the 'no surprises' approach to protest, which is supposed to mean that the police will explain what they will do on any given occasion. However, in practice, it has meant that organisers have to tell the police exactly what they are going to do, so that the police can then plan a massive operation around it. So, we've been pushing for measures to determine whether police are currently complying with human rights legislation or not. We launched a Charter for Freedom of Assembly Rights around the time of the Police, Crime, Sentencing and Courts Bill being introduced, partly because we knew the legislation was going to pass. And there will always be new legislation. But as long as the Human Rights Act isn't abolished, there is a basis for challenging actions that contravene it - and the one thing I can say is that Labour won't abolish the Human Rights Act - and neither have successive Conservative prime ministers been able to do that over many years, despite claims that they will, because human rights is embedded in all the case law that exists. But what we need is measures that make it more difficult for the police to avoid their responsibilities. Just saying that we need to better regulate facial recognition technologies, for

instance, is something we need to do. However, the expectation that Labour will take that seriously before an election - never mind afterwards, which is even less likely - just isn't very realistic. They have bought into the idea that criticising anything to do with law and order is beyond the pale. I don't really know what human rights organisations are hoping to get out of the process of lobbying Labour. But I wish them well in trying.

What about communities? What might communities expect both in relation to the right to protest but also on issues around policing in communities, such as stop and search? Particularly in relation to the take-up of facial recognition technologies?

From my experience of many years dealing with policing in communities, the work has been less about those grand questions of what happens during elections, it has been about processes for survival. Over the years, new powers would come in - like the ability to disperse people - often because some people weren't happy about a bunch of kids hanging around in an area. But they never really meant anything other than that the police would now find an excuse for what they were planning on doing anyway - which is the basis of stop-and-search. The debate around best practice around the use of stop and search, or making promises in a given year that stop-and-search will be different, has been going on for the best part of the thirty to forty years in which figures have been collected. We've seen how certain communities are disproportionately affected - and someone will come along and ask, 'why is this happening?' - as though it's never happened before.[1] The reason it's happening is not just because there's a problem with stop and search, but because the police who implement it are institutionally racist. We don't have any indication that that's going to change from whichever mainstream political party is likely to be in government.

There will always be panics about public order. There will always be these concerns about crime being out of control and politicians not being sufficiently aware of it. However, there won't be any real recognition of alternative approaches to reducing crime. Take the massive problem around county lines, and the way that young people are exploited - if you legalised the vast majority of drugs that are available, that would make the problem go away. Now obviously that doesn't mean there aren't user problems, but nobody's having these wider-ranging kinds of discussion. And so, what will happen is that stop and search will continue, and it will continue to be disproportionate. And sometimes people will make some noises

about it, but generally speaking it will be presented as if the disproportionality is a new phenomenon that nobody's thought about before, and things will just carry on.

When I was working in Newham, what happened in those circumstances was that people felt helpless and powerless. That meant that the job of people who want to push back on this - without getting involved in lobbying parliament - is to try and encourage people to develop a sense of power in the communities where they are now - by giving people the confidence to complain, and to organise, and to push back against local councillors who are not prepared to challenge the police commander in their area. This is not necessarily going to change the world, but the confidence this activity generates can quite often stop people in particular areas from experiencing the same level of oppressive policing as they would if there wasn't a form of opposition. This is why local Copwatch groups are important. It's primarily about building community power and confidence. Because the oppressive state isn't going away anytime soon, so we need to find ways of being able to deal with the problems on our doorsteps right now. Our priority is to try and encourage people to do that. We don't have the capacity to go and train up groups in every area, but I have written a pamphlet advising on how to set up one of these groups, based on the years that I did this work, which is available from the Netpol website.[2] After the election, regardless of who wins, there is still going to be an absolutely essential role for people who do this grassroots work, as that's where you are going to be able to make a difference.

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Notes

1. Editor's note: for more on the phenomenon of recurring mainstream surprise at the most recent instance of police misconduct, see Karim Murji, 'Institutional failure: policing in permacrisis', *Soundings* 83, spring 2023.

2. To get hold of a copy: https://netpol.org/2022/04/06/local-police-monitoring/.