

Protest Rights webinar: Then and Now: From Newbury to XR

Tuesday 9th February: 5pm - 6.30pm – Garden Court chambers

Characteristics of environmental protests include

- Open
- Non-violent
- Mass
- At sites of pollution

'Justification'

Prevention of crime - s3 Criminal Law Act 1967,

'Lawful excuse' for criminal damage – s5 Criminal Damage Act 1971,

Necessity / duress (common law includes –

In re A (Children) (Conjoined Twins: Surgical Separation) [2001] Fam 147

R v Martin (Colin) (1989) 88 Cr.App.R. 343, CA,

R v Wang [2005] 2 Cr App R 8.

Milestones in movement

1996 - Ploughshares Liverpool Crown Court

<https://www.independent.co.uk/news/pounds-1-5m-hawk-attack-women-freed-1331285.html>

2000 - Greenpeace decontamination GM crops -

<https://www.theguardian.com/environment/2000/sep/21/activists.gmcrops>

2006 - Lord Hoffmann in House of Lords Margaret Jones case -

<https://publications.parliament.uk/pa/ld200506/ldjudgmt/jd060329/jones.pdf> - esp 'the limits of self-help' para 70 onwards

2008 – GP Kingsnorth coal power station -

<https://www.theguardian.com/environment/2008/sep/11/activists.kingsnorthclimatecamp>

2019 - XR Cambridge mags court –

<https://www.cambridgeindependent.co.uk/news/we-find-you-not-guilty-xr-protester-cleared-of-criminal-damage-charge-9087961/>

2021 - Stansted 15 – Thacker and others, [2021] EWCA Crim 97

Police response

Judicial review of s14 in XR – Jenny Jones [2019] EWHC 2957 (Admin)

<https://www.judiciary.uk/wp-content/uploads/2019/11/Jones-Ors-v-Comm-of-Police-Approved-judgment.pdf>

Ratcliffe power station occupation – Barkshire and others - [2011] EWCA Crim 1885 20

<https://www.theguardian.com/environment/2011/jul/19/power-station-activists-win-appeal>

Also relationships

<https://www.theguardian.com/uk-news/2020/oct/28/secrets-and-lies-untangling-the-uk-spy-cops-scandal>

Undercover police inquiry - <https://www.ucpi.org.uk/> - Mitting

Prosecutors

Watching and besetting - s241 Trade Union and Labour Relations (Consolidation) Act 1992 – Ivan Todd

Value of (criminal) damage - £5k

Courts

Sentences – para 89 of Hoffmann in Margaret Jones (above) 89.

“My Lords, civil disobedience on conscientious grounds has a long and honourable history in this country. People who break the law to affirm their belief in the injustice of a law or government action are sometimes vindicated by history. The suffragettes are an example which comes immediately to mind. It is the mark of a civilised community that it can accommodate protests and demonstrations of this kind. But there are conventions which are generally accepted by the law-breakers on one side and the law-enforcers on the other. The protesters behave with a sense of proportion and do not cause excessive damage or inconvenience. And they vouch the sincerity of their beliefs by accepting the penalties imposed by the law. The police and prosecutors, on the other hand, behave with restraint and the magistrates impose sentences which take the conscientious motives of the protesters into account. The conditional discharges ordered by the magistrates in the cases which came before them exemplifies their sensitivity to these conventions. “

Court of Appeal in Preston fracking case – Roberts, Blevins, Loizou – [2018] EWCA Crim 2739

<https://www.judiciary.uk/wp-content/uploads/2018/12/judgment-roberts-blevins-loizou.pdf>

Business

Economic League, Consulting Association, ‘greenlisting’

<https://www.theguardian.com/uk-news/2015/feb/27/on-the-blacklist-building-firms-secret-information-on-workers>

Government and change of law

Demonization

<https://www.telegraph.co.uk/politics/2021/02/07/exclusive-far-left-influence-black-lives-matter-extinctionrebellion/>

Review of right to protest, articles 10 (expression) and art 11 (assembly) of the ECHR

<https://www.theguardian.com/commentisfree/2020/dec/14/british-government-right-to-protest-limitations-freedoms-pandemic-legislation>

Demos at homes – s126 of Serious Organised Crime and Police Act 2005, adding s42A to Criminal Justice and Police Act 2001

Public Order Act 1986 and Criminal Justice and Public Order Act 1994

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