

Introduction

In 2018, 400 people were arrested for their posts on social media in Russia whereas 3300 were arrested in Britain the same year, according to Russian-British comedian and social commentator Konstantin Kisin. The statement was made in his conversation in 2020 on *John Anderson Media* regarding the theme of free speech with the former deputy Prime Minister of Australia Anderson.ⁱ While some media claim the information provided is inaccurate and the two statistics are incomparable,ⁱⁱ this data does raise public concerns about free speech in Britain. The masses started questioning the government's true intention with arrests for "online malicious communications."

Since the 21st century, the UK has engaged in extensive mass surveillance of global communications through the "Five Eyes" alliance, which raised significant ethical and legal concerns about privacy and human rights.ⁱⁱⁱ More recent reports disclose that London has adopted a higher level of surveillance with video cameras to spot criminal suspects on the street.^{iv} These reports and comparisons between Russia and Britain prompt some people to question whether the UK is evolving into a police state. Given that Russia and its predecessor state the USSR has long been viewed as an authoritarian or even autocratic country, reinforced by the totalitarian police state under Stalinism, it was striking to juxtapose it with the UK, which has been proud of its liberal tradition.

On balance, Britain has been increasingly viewed as a police state criminalising free expression, not necessarily due to the command of the police force, but largely resulting from the ambiguity of existing laws in the digital age as well as the controversiality of the ongoing lawmaking attempts to apply them.

Facts and Criteria

In the aforementioned 2020 interview, Kisin specifically provided two examples. 19-year-old Chelsea Russell was found guilty because she sent lyrics on Instagram that included racist and violent language that happened to come from her late friend's favourite song.^v YouTuber Count Dankula (Mark Meechan) was found guilty of training his girlfriend's pug dog to do a Nazi salute in response to phrases like "Siege Hell" or "Gas the Jews".^{vi} They were both found guilty of a hate crime for being "grossly offensive."

According to the Malicious Communications Act 1988, England and Wales outlawed electronic messages causing distress,^{vii} under which Russell was charged. Similarly, it was an offence to send public messages of a "grossly offensive or of an indecent, obscene or menacing character" under Section 127 of the Communications Act 2003,^{viii} which Meechan was accused of violating. In fact, in Scotland, 644 prosecutions were documented and 567 were convicted in 2017-2018.^{ix} More recent cases also involved the prosecution of Joseph Kelly of Glasgow sending a "grossly offensive" tweet about Captain Sir Tom Moore the day after Moore's death in 2022.

Before delving into these cases, the concept of a police state should be clarified. While in ancient Roman, it had some positive connotations emphasising the obligation of a state and its justified

authority,^x a modern police state is referred to as a surveillance state with extensive use of a police force, often secret and controlled by an authoritarian government to suppress dissent and maintain political power. Sometimes they even became a powerful political force in their own right.^{xi} Under such a situation, the state exceeds its power in policing people with illegitimate methods and violates citizens' fundamental rights such as the freedom of expression.

As mentioned, the Soviet Union was a prime example of a modern police state. The state government used the KGB to conduct extensive surveillance, censored all media to ensure only state-approved messages were disseminated, and meanwhile arrested on flimsy evidence or mere suspicion that eventually led to imprisonment, banning opposition parties effectively.

As the case of the USSR exemplifies, there are 4 basic traits of a police state:

1. A highly centralised state government with unified political, legal, and administrative authority.^{xii}
2. Permanent surveillance of the population through widespread networks of informers and the control of communications.^{xiii}
3. State-sanctioned intimidation of dissenting voices, controlling opinions through the political police.^{xiv}
4. Preventive detention and exceptional laws to crack down on dissent with unjust prison terms.^{xv}

With these four criteria and background information, the next section will examine to what extent Britain now qualifies as a police state.

Speech Crime or Suppression of Dissent?

Despite some signs of centralisation, institutional factors are limiting the authority of a single police system in the UK. In Britain, there are national agencies that handle organised crime and ensure standards and accountability across forces. However, the British police system has 45 territorial police forces across the UK, each operating independently within its geographic area.^{xvi} As for its legal system, the UK grants separate legislatures and executive power in Scotland, England, and Northern Ireland.^{xvii} This system intends to turn the country into a more democratic kingdom rather than a more authoritarian one.

In terms of surveillance, the arrests in the UK do not necessarily indicate a high level of spying on the general public. In the above cases, perpetrators were all arrested due to reports by other citizens rather than being spied on by the police. For example, Russell was reported to the police because of the words she posted to the bio section of her Instagram account.^{xviii} Without further clues about the person(s) who reported her, this was no indication of the police spying on social media posts, not to mention that there are laws such as the Investigatory Power Act 2016^{xix} to regulate the access to the content of internet users. Further, although some would worry that the

Online Safety Act 2023 “aims to police the internet,”^{xx} there is still limited evidence to confirm the situation as surveillance.

To determine whether the arrests were intentional intimidation of dissents, the subjects being prosecuted and the reasons for their prosecution should be further investigated. In Russell’s case, as a 19-year-old and regular user of Instagram with a little over 100 followers, Russel seems not a particularly notable individual.^{xxi} Similarly, Meechan in the Count Dankula case, now a Scottish right-wing YouTuber, comedian,^{xxii} and former candidate for the European Parliament, became influential and politically active only after his arrest rather than before it. Both cases involved suspected racism, one targeting black people while the other targeting the Jews. The “crimes”, despite their likeliness to be connected to far-right ideals, are generally unacceptable by the common society as well. Hence, the arrests were not arbitrary or without ground. Although the judgement may be too harsh or lack convincing evidence, this is a matter of debate in normal legal practices, not determined by a government with highly concentrated power or its abuse of power to suppress dissenting voices.

For the last criterion regarding legislation, despite the cases presented above, some would still argue that newsworthy people and events get charged more often under Section 127 of the Communications Act 2003, which criminalizes sending grossly offensive messages via public electronic networks. Some experts explain that this seems valid because certain topics are more frequently discussed and, on average, generate more negative comments while many other Section 127 cases prosecuted for insulting or harassing attract media coverage remain unreported, hence leading to the confirmation bias.^{xxiii} The widespread topic of racism proved the former claim, whereas Count Dankula’s case is likely to justify the latter statement.

Based on the discussion above, there is insufficient evidence for Britain to meet the criteria of the police state. First, the UK does not have a highly centralized and authoritarian government, as the police system is experiencing decentralization and the UK operates under a system of devolution legally. Second, although increasing surveillance with CCTV cameras is reported in the UK, there is no clear evidence or even indication that social media posts are being surveilled hence leading to the convictions. Third, while the targeted social media posts may include messages aligned with some far-right political ideals, the authors neither had strong connections with political groups nor were well-known, hence the likeliness of suppressing political dissenters is low. Fourth, although the laws may cause confusion and involve subjective inclinations when interpreting at the current stage, the prosecution and the police action have followed the laws and the legal procedures. Given the context and content of the laws, such as Section 127, we cannot assert that they were meant to be a party’s political tool to control people or prevent political dissenters. Therefore, claiming the UK to become a police state is an exaggeration compared to its current situation.

British Legal System: The Centre of the Problem?

Then why are the public so concerned about the activities of the Britain police and alarmed by Britain’s potential future as a police state? One major factor is how the general public perceives news of the arrests, influenced by their interpretation of the legal principle of freedom of speech

and the clarity of the laws themselves. The differences between people’s interpretations and the actual contents of the law ignited debates regarding the boundaries of freedom of speech and raised concerns about British censorship.

According to The Joint Committee of Human Rights in the UK, “[e]veryone has the right to free speech” unless it incites violence or terrorism, stirs group or racial hatred, causes fear or distress, or constitutes harassment or defamation. However, it noted that “[i]t does not prohibit speech which others may find upsetting or offensive.”^{xxiv} The wording of the item is broad and ambiguous and involves personal perceptions as its standard. Since it is often difficult to expect and determine what speech upsets or offends a diverse “other”, it would include subjective opinions to identify whether the controversial posts breach the law.

Nevertheless, multiple laws in the UK, such as the Communications Act 2003, include hate crimes that incite racial, religious, or other hatred. Hence, some would raise the question of whether racist jokes that are distasteful and morally unjust should earn people criminal records, meanwhile charging the police for intentionally interfering with the freedom of expression, human rights, and democracy in the UK. However, as equality and human rights barrister Dr. Anna Loutfi explained, people making the aforementioned claim seemingly ignored the Parliament’s intention of drafting the Communications Act 2003. While the original intent was to prevent the waste of public services funded by public money,^{xxv} the Act has no intention to “criminalis[e] or quasi-criminalis[e]” people posting on Facebook or Twitter since social networking was not pervasive during the time drafted.^{xxvi}

To keep updated and better regulate the online environment, new laws have been passed, such as the Online Safety Act 2023 which regulates online speech and media. However, some people worry that the new law may indicate stricter regulation and further limit freedom and democracy. This interpretation is partially caused by the proposal of the Bill restricting “lawful but harmful” speech in 2022. The proposal raised debates and was criticised for creating a new form of censorship of otherwise legal speech,^{xxvii} yet it is noteworthy that this item is now removed from the bill.^{xxviii} However, some would still have an impression that the law passed is a stricter regulation against freedom of speech, which is rooted in misinterpretation.

Concluding Remarks

Underneath heated debates and deep concerns about potential surveillance in the UK, there are constant needs of ordinary people to enjoy their fundamental rights acknowledged by law. Even though the current evidence does not fulfil the criteria to demonstrate that the UK is a police state, non-negligible situations still cause real concerns. For example, criticizing Captain Tom Moore could have potential political intentions, for he was seen as a national hero, especially by the right-wing press. Also, the arrest of Meechan gained support from far-right figures such as Alex Jones and Tommy Robinson, igniting dissenting sentiments.^{xxix} To better respond to society with justified laws and avoid abusing its power, the UK government is obligated to make the law clear, keep its citizens informed, and always show its respect for the fundamental rights of people as society develops.

(Word Count: 1987)

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- ⁱⁱ PA Media, 'Russia Has Far More Restrictions on Social Media Use than the UK' (PA Media Blogs, 1 March 2023) <https://pa.media/blogs/fact-check/russia-has-far-more-restrictions-on-social-media-use-than-the-uk/> accessed 6 July 2024.
- ⁱⁱⁱ Peter Beaumont, 'NSA Leaks: US and Britain Team Up on Mass Surveillance' (The Guardian, 22 June 2013) <https://www.theguardian.com/world/2013/jun/22/nsa-leaks-britain-us-surveillance> accessed 6 July 2024.
- ^{iv} Adam Satariano, 'London Police Are Taking Surveillance to a Whole New Level' (The New York Times, 24 January 2020) <https://www.nytimes.com/2020/01/24/business/london-police-facial-recognition.html> accessed 6 July 2024.
- ^v BBC News, 'Woman guilty of 'racist' Snap Dogg rap lyric Instagram post' (BBC News, 19 April 2018) <https://www.bbc.com/news/uk-england-merseyside-43816921> (accessed 6 July 2024).
- ^{vi} Washington Post, 'Man who taught dog Nazi salute found guilty of hate crime' (YouTube, 22 March 2018) <https://www.youtube.com/watch?v=Xa5CNf7pMAM> (accessed 6 July 2024).
- ^{vii} Malicious Communications Act 1988, s 1, <https://www.legislation.gov.uk/ukpga/1988/27/section/1> (accessed 6 July 2024).
- ^{viii} Communications Act 2003, s 127, <https://www.legislation.gov.uk/ukpga/2003/21/section/127> (accessed 6 July 2024).
- ^{ix} Scottish Government, 'Analysis of prosecutions and convictions under Section 127 of the Communications Act 2003: FOI release' <https://www.gov.scot/publications/foi-202000010956/> (accessed 6 July 2024).
- ^x Brian Chapman, *Police State* (Macmillan and Co Ltd 1971), p.13.
- ^{xi} *Ibid.*, p.70.
- ^{xii} *Ibid.*, p.18.
- ^{xiii} *Ibid.*, p.132.
- ^{xiv} *Ibid.*
- ^{xv} *Ibid.*
- ^{xvi} UK Police, "Find a Police Force," <https://www.police.uk/pu/find-a-police-force/> (accessed 6 July 2024).
- ^{xvii} UK Government, "Devolution Factsheet," https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770709/DevolutionFactsheet.pdf (accessed 6 July 2024).
- ^{xviii} Oli Alex, "Chelsea Russell: Liverpool Resident Making a Difference," Oli and Alex, <https://www.oliandalex.com/chelsea-russell-liverpool-resident-making-a-difference/> (accessed 6 July 2024).
- ^{xix} Investigatory Powers Act 2016, Part 1, <https://www.legislation.gov.uk/ukpga/2016/25/part/1/enacted> (accessed 6 July 2024).
- ^{xx} Chris Vallance & Shiona McCallum, 'Online Safety Bill: Plan to make big tech remove harmful content axed' (BBC News, 29 November 2022) <https://www.bbc.com/news/technology-63782082> (accessed 6 July 2024).
- ^{xxi} Tom Duffy, 'Woman Who Posted Rap Lyrics Guilty of Sending Grossly Offensive Message' (Liverpool Echo, 17 April 2018) <https://www.liverpoolecho.co.uk/news/liverpool-news/woman-who-posted-rap-lyrics-14543694> (accessed 6 July 2024).
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- ^{xxvi} The Telegraph, 'I was arrested over a meme' Britain's free speech crisis explained' (YouTube, 1 September 2022) <https://www.youtube.com/watch?v=YyMGO2MO6GU> (accessed 6 July 2024).
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^{xxviii} Paul Sandle, 'UK Ditches Ban on Legal but Harmful Online Content in Favor of Free Speech' (Reuters, 29 November 2022) <https://www.reuters.com/world/uk/uk-ditches-ban-legal-harmful-online-content-favour-free-speech-2022-11-28/> (accessed 6 July 2024).

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