

**This book is dedicated to Betty and David Segalov,
who taught me the importance of community
and compassion.**



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RESIST

**How to be an Activist
in the Age of Defiance**

Michael Segalov

Laurence King Publishing

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KNOW
YOUR
RIGHTS

Be ready for every eventuality

INTRODUCTION

Organizing collectively and taking action as a movement can be a life-changing experience. It will give you a sense of empowerment and hope that enters your bloodstream and will run through your veins for a long time to come. Change, however, isn't always welcomed by those in charge. If you encounter repression and violence, you won't just be left with physical scars; make a wrong move and your newfound strength will be ripped from your hands. That's why it's crucial to be prepared and know your legal rights.



Our rights are everything

While modern legislation has enshrined our right to protest in law, people in Britain throughout history have stood up to fight for these freedoms. The European Convention on Human Rights sets down our right to freedom of expression and freedom of assembly, although over time the state has introduced laws and regulations to restrict us. That said, if you understand your rights and know where to find support, exercising these freedoms can be easy.

DISCLAIMER
THE LAW
IS A COMPLICATED
BEAST
ALWAYS CONSULT
A SOLICITOR
WHEN YOU NEED
LEGAL ADVICE

Understand the lay of the land

When it comes to where your right to protest can be exercised, knowing who owns the land you stand on is essential. Most land owned by local authorities or central government, including public highways, should be accessible for protests and marches. If the element of surprise is not important, it might be worth speaking to the authorities in charge beforehand, just in case there are local bylaws or procedures you are required to follow that may restrict your access. In practice, though, public land is normally ours to meet on.

It's not always obvious if land is privately owned. Vast swathes of public space have been sold off to the highest bidder in cities like London in recent years. Think of this as someone else's back garden: we have few rights to protest on land owned by corporations or individuals, so if you're looking to hold a rally or a march from A to B, make sure you find out who owns what by contacting your local authority or the Land Registry.

Under the Criminal Damage Act of 1971 it's an offence to damage or destroy someone else's property, so think carefully before partaking in any activity that leads to this as a result. The courts have found that graffiti, even with water-soluble paint, causes damage and can come within this offence. Maximum punishments depend on the value of the damage.

It is a defence to show you had a 'lawful excuse' to undertake property damage or destruction. In 2008, six Greenpeace activists who occupied a chimney at Kingsnorth power station in Kent were cleared of criminal damage charges after arguing that they had legal justification for their action as they were trying to prevent climate change causing greater damage to property around the world.

To trespass or not to trespass?

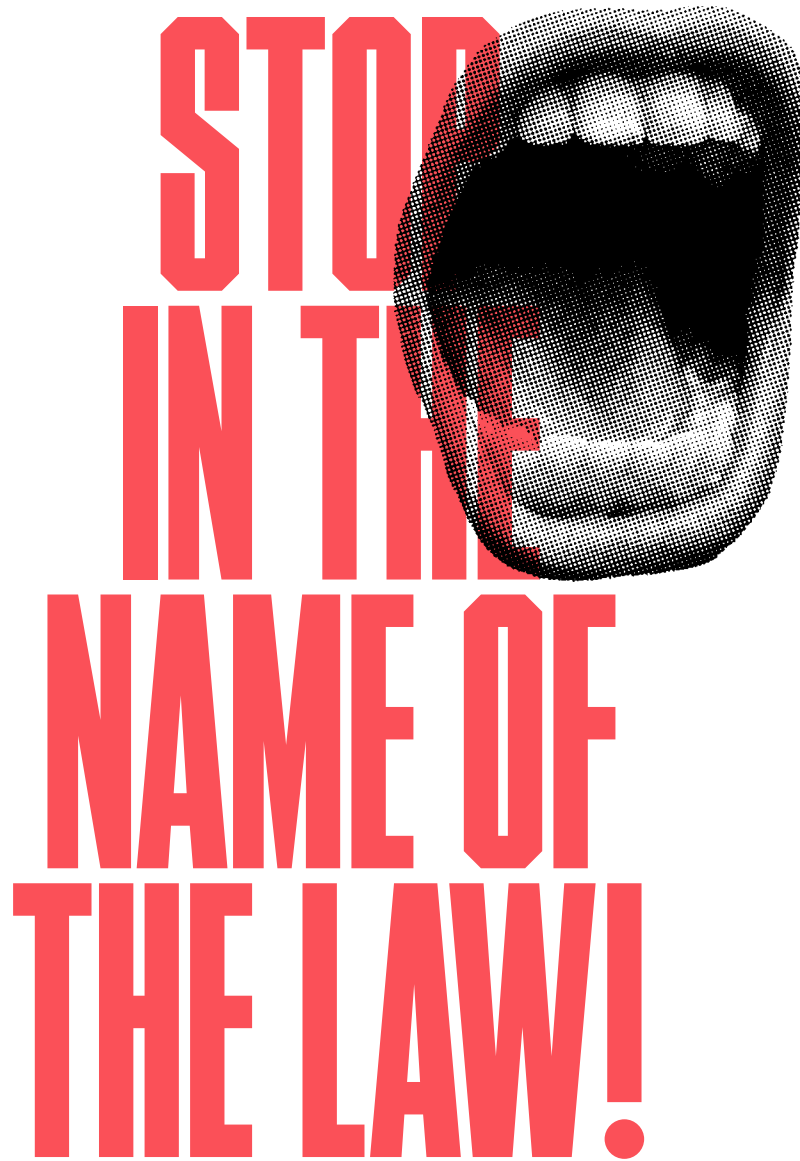
A supermarket gives you permission to walk down their aisles to grab your groceries, but that doesn't give you licence under the law to do whatever you want in their store. However, taking action on private land might be the tactic you opt for, especially if you're targeting a corporation and you want your campaign to be seen.

A landowner can quickly withdraw permission granted to you to be on their land – and if they do, you will be trespassing. For example, a supermarket manager could ask you to leave if you were to stage a protest in their store. Although trespass is not always a criminal offence and is usually a civil matter, landowners have a right to forcibly remove trespassers and, in some cases, demand damages in court. Generally, though, should you refuse to leave when asked, they will just call the police. If you fail to comply with an officer's orders, you may then be arrested.

There are, however, some occasions when trespass can be a criminal offence – including aggravated trespass, trespass on a designated site and trespassory assembly.

F Y I

Activists have long used occupations as a tactic for reclaiming space, grabbing attention and creating a base for their cause. Legally speaking, these are a whole different ball game, so do your homework and check out the reading list in this book before setting up camp.



Stop and account

Sometimes the police will stop you and ask you where you've been, what you've been doing and with whom. The police do not have any specific legal power to make you stop and account for yourself in this way. You do not need to answer their questions, and can reply with a 'no comment' if you wish.

That being said, if the police have reason to believe you've been acting in an antisocial manner, it is an offence if you fail to provide your name and address when asked. You can be arrested for refusing to give your details or offering false or misleading personal information.

Stop and search

You can be searched by a police officer if they suspect that you are carrying something that is illegal, or that could be used to commit an offence. Police officers must outline their basis for searching you before doing so.

Extra police powers

There are two exceptions to the rules of 'stop and search' and 'stop and account' – circumstances in which the police have greater powers. If an authorization under Section 60 of the Criminal Justice and Public Order Act has been granted, officers can search whoever they wish for dangerous instruments (weapons) if they believe there is potential for violence.

If an authorization under Section 47A of the Terrorism Act has been granted, officers can search whoever they wish in a given area, if they reasonably suspect an act of terrorism might take place.

An officer is obliged to inform you that the use of these powers has been authorized for that place and time.

The four Ws ...

If you are stopped and searched under any of these powers, get someone else to record your interaction with the police, if possible, and make a note of the officer's answers to these questions:

WHY

Why are you stopping me and on what grounds?

WHAT

What are you looking for?

WHO

Who are you?

– Get the officer's name, badge ID, and ask if they have a warrant card.

WHERE

Where are you from?

– Which police station is the officer attached to?

F Y I

You do not have to give personal details if you are stopped and searched. Ask for a 'Stop Form', a record the police should make once your search is completed. It might be useful at a later date.

Face coverings

For many reasons, activists will sometimes wish to hide their identity. If a Section 60AA of the Criminal Justice and Public Order Act authorization is in effect, police officers can demand that any face covering such as a mask or balaclava being used mainly to conceal your identity, be removed. Failure to comply can result in arrest, and officers are authorized to seize these items.

The bust card

It's impossible to predict whether the police will use their powers at a protest, so preparing bust cards is well worth the effort. These are pocket-sized pieces of paper including legal basics and important contact info in case of arrest or police interaction. Create a legal helpline on the day of any action, too, so that you can keep track of police actions and arrests. Buy a new pay-as-you-go simcard and put it into a phone. Ask someone behind the scenes to monitor it and make notes during a march or action, as witnesses might call in to report incidents on the ground. Make sure this phone number is circulated and on bust cards (see opposite). These reports will provide a valuable resource should cases end up in court.

Check out an example of a bust card opposite – don't forget to fill in the gaps.

FRONT

LEGAL ADVICE – ARREST

Say 'NO COMMENT' to all questions from police, even during interviews and 'casual chats'. Police often need more evidence and may try to deceive and pressure you into incriminating yourself.

You have the right to free legal advice at the police station.
Duty solicitors often give bad advice to protestors.

INSERT NAME OF LAW FIRM AND PHONE NUMBER HERE

You have the right to have someone informed of your arrest
and an interpreter if English is not your first language.
If you appear under 18, an appropriate adult should be called.

If you witness an arrest or want support, contact our legal hotline:

INSERT PHONE NUMBER HERE

BACK

LEGAL ADVICE – STOP & SEARCH

Before a search, you must be told the name and station
of the searching officer, the reason you are being searched,
and what power you are being searched under.

You do not have to give your name and address,
or answer questions under any stop-and-search power.

You are entitled to a receipt of the search.

Legal observers are independent volunteers who gather
evidence on behalf of anyone arrested. They act to counter
police intimidation and misbehaviour.

INSERT CONTACT INFORMATION FOR LEGAL
SUPPORT GROUPS AND YOUR CAMPAIGN GROUP HERE

Crowd control

Kettling, or containment, is a technique used by the police to bring large crowds under their control. Kettles can be imposed for long periods of time, so if you're heading to a protest where a kettle might occur, take water, supplies, warm clothes and your phone. The police are responsible for drawing up plans to assist vulnerable and distressed people, and they should provide water and toilets where necessary and practical.

In the past, police officers have demanded details from protestors as a condition of leaving a kettle, but this has been ruled unlawful. You are not required to give your name or address or have your picture taken. But you will have to wait until the police allow you to disperse.

JARGON BUSTER

KETTLE

Sometimes referred to as a kettle, containment is a tactic employed by the police to seal off protesters in a given space for a period of time, if they believe it is necessary to prevent disorder or protect public safety.

DUTY SOLICITOR

Duty solicitors are the lawyers on call at a police station. They handle a wide variety of criminal cases on a regular basis, but they are unlikely to be experts in the details of protest law. If you are arrested, these solicitors may be recommended to you, but any criminal lawyer can take on your case if they choose to.

Facing arrest

Facing arrest is stressful and unpleasant, even if you know you're having your liberty taken away for a cause. In some situations, activists engage in civil disobedience with the expectation of being put in handcuffs. At other times, the police might arrest you before you've even had a chance to pause for thought.

The Green & Black Cross is a grassroots network of activists who support people facing legal action for their involvement in protest. Their five key messages are worth remembering if you find yourself in handcuffs.

1 | No comment – From the moment you first have contact with the police, what you say may be used as evidence. Saying 'no comment' during informal conversations after arrest, while being transported, during processing, and in any interview will ensure that you don't say anything that you later regret, or that might incriminate you or anyone else.

2 | Personal details – You don't have to give personal details to the police at any point during the arrest process, although doing so can sometimes speed up your release. Speak to your solicitor, but you'll only ever need to give a name, address and date of birth.

3 | Find a good lawyer – Identify which law firms in your area, or in the vicinity of the protest, specialize in protest and activism cases. Write their phone number on your arm in case you are arrested, as your belongings may be confiscated. When you are offered the right to legal representation, call them. Duty solicitors are unlikely to be experts in the specifics of protest law.

4 | Cautions – Accepting a caution is admitting guilt, but without the need for the police to collect evidence or convince a court. Never accept a caution without speaking to your solicitor.

5 | What power? – The police often rely on activists not knowing the law or their rights. Always ask under what powers officers are asking you to do something; likewise if they arrest you. The police have a duty to keep you informed. Make a note of who they are and what they say as soon as possible.



Under 18? Read this

If you are aged under 18 when arrested, a parent, guardian or appropriate adult must be called and remain present for any interview. You can also request their presence if you're searched.

If you are over 16, the police can take your fingerprints and photograph you.

If you are 15 or 16, both you and your parent or guardian will need to agree to fingerprints being taken; if you are 14 or under, it's up to your parent or guardian to decide.

Hold the police to account

Sometimes officers will act wrongly, but even the police aren't above the law of the land. Legal procedures can be tricky to navigate, so if you feel you've been treated unfairly, consult a solicitor with experience to look into your case.

You may be able to make a civil claim against the police if you've been assaulted or mistreated, wrongly arrested or prosecuted for something you didn't do. Your lawyer will be best placed to advise you. This could result in an apology, damages being awarded or an admission of wrong-doing by the police.

You might want to make a complaint against the police in circumstances where there might be insufficient evidence available to make a claim succeed in the courts. You can also make a complaint against police officers acting in a rude and unprofessional manner.

PREPARE FOR ALL EVENTUALITIES

Staying on the right side of unjust laws isn't always easy, and even if you do, there is no guarantee you won't end up intimidated, arrested or under attack. Keeping yourself informed of your legal rights is the best way to ensure you're ready for whatever is thrown at you. Whatever happens, though, remember to stick together: support and solidarity are invaluable if you're facing the full force of the law.



THE TEENAGE ACTIVISTS TAKING THE US GOVERNMENT TO COURT

In 2015, when Xiuhtezcatl Roske-Martinez was 15 years old, he decided he'd had enough. His future – and that of his entire generation – was being threatened by climate change, and someone needed to be held accountable. Now he's suing the US government, alongside a group of other young people.

In 2017, two years after filing their suit, the teens substituted Donald Trump's name for that of Obama. (As this book goes to print, their case is still ongoing.) Sometimes the only way to be heard is to take things straight to the top.

Xiuhtezcatl (pronounced 'shoe-tez-cath') is still in his teens, but he's far from your average teenager. An environmental crusader with ten years' activism experience, he's also an acclaimed public speaker and an aspiring hip-hop musician who is suing the government in his spare time.

Impressively, Xiuhtezcatl is not alone in the wunderkind stakes. As Youth Director for the environmental awareness group Earth Guardians, he is one of a vast army of young activists who are shockingly confident, fearlessly outspoken and brimming with knowledge about the state of the world. Collectively, they are fighting to change the US stance on climate change and curb the ticking time bomb of environmental chaos that their generation has been saddled with. Now he's using the law of the land in an effort to take the fight forward.

'Adults did a splendid job of messing up the planet for our generation, who now have to pick up the pieces and figure out what to do with it'. Xiuhtezcatl explains. 'And adults are going to be done [on this planet] a lot sooner than we are, so it's easy for them to cop out and not really think about it.'

Part of the movement reached a groundbreaking pinnacle in 2015 with Xiuhtezcatl, one of 21 young activists, filing a lawsuit against the United States federal government for their lack of action. Backed up by renowned minds, including climate scientist Dr James E. Hansen, along with the Oregon non-profit environmental group Our Children's Trust, the lawsuit claims that the government has failed to honour its constitutional responsibility to allow children to grow up with the right to life, liberty and property, and in a healthy atmosphere.

'The judge was incredibly intelligent and listened to everything we had to say'. Xiuhtezcatl recalls. 'He was very knowledgeable about the public-trust



doctrine, which is one of the big doctrines that we're presenting as part of the constitution to help hold federal governments accountable.'

Xiuhtezcatl has high hopes that the case will go to trial, but it's been an uphill battle for the group.

Representatives of the fossil-fuel industry filed a motion to dismiss the lawsuit in November 2015, but a federal court in Oregon ruled in favour of the young plaintiffs' 'groundbreaking' action. In 2017, another attempt to have the case dismissed failed.

'The thing that's kind of scary is that if they dismiss this lawsuit, we'll have to file for an appeal, and then if the appeal is thrown out of court, then we're going to have to file another lawsuit. And the thing that sucks is that in a couple of years, things will be so bad in the climate and so much worse than they are today.'

While legal counsel for the activists is provided by Our Children's Trust, the US government and the fossil-fuel industry have employed corporate giants to represent them. The imbalance would likely be even greater were the case to go to trial. But considering all that he's achieved in his years on earth, Xiuhtezcatl is fittingly nonchalant about the scale of the lawsuit. His deadpan response to possible failure? 'It'd be a bummer.'

'But, at the same time', he continues, 'I know that we're gonna keep coming back. We're not gonna be silenced and we're not gonna quit. Our voices will continue to echo through the world and people will realize that we're serious. We're here to stay. This is not a publicity stunt, this is us fighting for our futures, in the streets and in the courts and in our communities and in our schools. We're taking the world by storm. The world ain't even ready for us.'

