

## Justice Committee

### Offensive Behaviour at Football and Threatening Communications (Scotland) Bill

#### Written submission from Deirdre O'Reilly

My concerns are generally that the Bill, as it stands, may restrict freedom of speech and religious freedom, including the distribution of Christian literature or street preaching.

#### **[1] A section 1 offence of offensive behaviour at or relating to football matches**

[i] There appears to be no protection clause included in the Bill which would ensure freedom of speech for people. My concern as a Christian is that other Christians or myself would be allowed to promote the Christian message in the context of football matches. There seems to be the possibility that police may object to those sharing the Christian message, limiting religious freedom.

[ii] There is concern regarding the differing views on the acceptability of various sexual orientations and actions. As a Christian, I hold a particular viewpoint regarding what is sexually sinful and what is sexually good. Other members of the public may have a differing viewpoint. If my viewpoint is expressed, the Bill seems to leave open the possibility that police may consider that I am committing an offence.

[iii] The Bill is intended to make an offence of actions which incite public disorder. However, it would include the situation where a person's actions or comments are LIKELY to incite public disorder. However, the Bill leaves the judgement open to the subjective decision of the police. It is possible that, if I were distributing Christian literature near a football match, a member of the police may consider that this behaviour is likely to incite public disorder.

[iv] Moreover, according to the Bill, the situation can be deemed an offence even when the persons likely to be incited to public disorder are not present or when no public disorder actually happens. Again the judgement depends very much on the subjective view of the police. It is possible that, if I were distributing Christian literature near a football match, a member of the police may consider that this behaviour is likely to incite public disorder, even when no person present seems to be offended.

[v] The vagueness of the legislation is such that the offence may be committed on a journey to a football match. However, it includes people who may neither have attended nor have the intention of attending the match. Such people may be classed as on a journey to a football match. This could include almost anyone travelling on public transport in the neighbourhood of a scheduled football match.

[vi] The offence includes actions/comments by any British citizen who is outside Scotland. Such a situation seems to involve Scotland legislating for others not residing in or visiting Scotland. This seems to be questionable as a legal possibility.

### **[II] A section 5 offence involving threatening behaviour**

Again the vagueness of the provisions of the Bill raise concerns, particularly as to the stirring up of religious hatred..

1] Any communication by any means except unrecorded speech is included. This would appear to include the possibility of recorded sermons or podcasts, again raising concerns as to the freedom of Christians to express our views on sexuality.

2] The communication seems to include almost anything capable of being read or listened to, again raising concerns as to the freedom of Christians to express our views on sexuality.

3] It is possible that the quotation of some verses of Scripture might be regarded as threatening, even while it is not making threats.

4] The offence includes those outside of Scotland which raises the question of legal possibility.

### **[III] General summary**

My concern regards the lack of clarity of the Bill, which could lead to prosecutions of Christians who are sharing the Christian message.

The terms 'THREATENING' and 'STIRRING UP HATRED' are not clearly defined. Their interpretation is very subjective. There is the possibility that criticism of another's religion may be regarded by some as 'threatening' and 'stirring up hatred'.

The protection of the matter of 'reasonableness' is also subjective. Who decides what is reasonable and on what criteria?

A person who takes offence at what another publishes may possible use the legislation to intimidate the person publishing.

The Scottish Government believes that the Bill will NOT

- Stop peaceful preaching or proselytising.
- Restrict freedom of speech including the right to criticise or comment on religion or non-religious beliefs, even in harsh terms.
- Criminalise jokes and satire about religion or non-religious belief.
- SEE <http://www.scotland.gov.uk/Topics/Justice/law/sectarianism-action-1/football-violence/bill>

However, the very vagueness and the subjectivity involved in the suggested Bill may result in such situations arising. I understand that, in Australia, two Christian

missionaries, who spoke at a seminar on evangelism among Muslims, were prosecuted under a hate crimes law, after someone in the audience at the seminar complained to the police.

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