Justice Committee

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

Written submission from Anonymous 54

1. Do you agree with the proposal in the Bill to repeal the 2012 Act? What are your reasons for coming to this view?

Yes, I agree with the proposals as the OBFA is nothing more than a catch all piece of legislation which rather than criminalise specific acts allows charges to be brought for any reason as long as it occurs within the confines of a regulated football match. Police Scotland officers whom I have no personal connection to know details of my personal life, it seems through surveillance. Members of the dedicated Focus football unit seem to take pleasure in revealing that they know details of my personal life whilst I am attending games in Scotland. They are emboldened by the OBFA which gives them carte blanche to target football fans for no reason whatsoever. I also have in the subsequent years of the OBFA being passed obtained a legal degree and have ambitions of forging a career within the legal profession. This however is in danger due to the continued harassment I am subjected to and at times I have felt that I am almost being forced to stop attending football games.

2. Did you support the original legislation?

No.

3. Do you consider that other existing provisions of criminal law are sufficient to prosecute offensive behaviour related to football which leads to public disorder? If so, could you specify the criminal law provisions? Or does repeal of section 1 risk creating a gap in the criminal law?

As it stands, without the OBFA I believe there is sufficient criminal law available to prosecute behaviour related to football which leads to public disorder. Laws such as Breach of the Peace, Section 74 of the Criminal Justice (Scotland) Act 2003, Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 are more than adequate to cover issues at football.

4. Do you have a view on the focus of section 1 of the 2012 Act, which
criminalises behaviour surrounding watching, attending or travelling to or from football matches, which may not be criminalised in other settings?

This act has led to the absurd situation where acts which are not criminal in any other setting can be deemed criminal within football. “Offensiveness” is a subjective matter, and the legislation allows an imaginary person to be thought to have been offended in order for charges to be brought. In a society which claims to be democratic there can be nothing more draconian and dictatorial than state authorities arbitrarily deciding what others may or may not find offensive and thereby criminal. The Act is open to abuse by members of the public who use football rivalry to complain about anything they want and also by Police Scotland who use it as a tool to suppress political thought and activism.

5. Do you consider that other existing provisions of criminal law are sufficient to prosecute threats made with the intent of causing a person or persons fear or alarm or inciting religious hatred? If so, could you specify the criminal law provisions? Or does repeal of section 6 risk creating a gap in the criminal law?

Section 6 has hardly been used in the whole period since the OBFA was enacted, Police Scotland and prosecutors regularly use other legislation eg Communications Act, 2003. There are clearly sufficient areas of criminal law available to use.

6. Do you have a view on the proposed transitional arrangements in the Bill: that there should be no further convictions for section 1 and 6 offences from the date on which the repeal of those offences takes effect; and that the police will cease issuing fixed penalty notices at least from the point at which the Bill is passed?

Implementation of the OBFA should cease immediately and I agree with the transitional arrangements in the Bill. In fact previous convictions should be quashed as this Act has impacted lives of football fans unfairly. This Act which has been condemned by many within the legal sector and human rights groups needs to be repealed immediately; it is a draconian law which allows for no real person to exist, to be offended, at the behest of a Police Officer. Society cannot function whereby one person can dream up offence on their own bringing their own prejudices into their thought process.

7. To what extent do you consider that the 2012 Act has assisted in tackling sectarianism?

This piece of legislation has targeted football fans because the Government and authorities wish to hide the fact that sectarianism is a societal problem, not purely a
football issue. There were move convictions for sectarian and religious hatred outside of football than there was under this Act since it came into force. The Act in no way deals with sectarianism, it is merely a footnote. It does however criminalise men and women simply because they are football fans who otherwise wouldn’t be criminalised. The issue of sectarianism requires a much larger discussion aimed at society as a whole. Sectarianism and religious hatred manifests itself in every aspect of everyday life and should be tackled as such. For too long football fans have been used as scapegoats and blamed for the scourge of sectarianism and the OBFA simply allowed the Government to wash their hands of it.

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