Justice Committee

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

Written submission from Frazer MacLeod

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

I agree with the proposal to repeal the OBFTC act. This is superfluous legislation that targets a specific section of society, unfairly. It can criminalise people when there is only the thought of offense, not any actual offense caused. That is Orwellian.

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?

I consider that Breach of the Peace legislation covers any potential act covered by the OBFTC ("conduct severe enough to cause alarm to ordinary people and threaten serious disturbance to the community"). Importantly, to prove breach of the peace, it needs to be shown that there is someone who has been caused alarm.

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?

An act that is criminal on one occasion should be criminal on all occasions. It cannot be that certain acts are only criminal in certain settings. In that scenario the perpetrator could be a victim of circumstance, as opposed to intending to break the law.

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?

Breach of the peace includes the provision of alarm to the community. A community can be defined by section 74(7) of the Criminal Justice (Scotland) Act 2003 (asp 7)). There is no gap.
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?

Yes

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

I don’t believe it has been effective.

Frazer MacLeod
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