

Written evidence from Josh Evans (PCS0397)

Protest

Peaceful protest is a cornerstone of democracy. Protest movements have secured many of the basic human rights we take for granted today, including universal suffrage. The importance of the right to protest was recognised by the current Policing Minister, Kit Malthouse, when he stated that “The right to peaceful protest is a fundamental tool of civic expression, and will never be curtailed by this government.”

Unfortunately, however, this Bill does more than curtail peaceful protest – it effectively neuters it.

The amendments to the Public Order Act 1986 will provide sweeping police discretion to set restrictions to peaceful protest. These restrictions include the location, duration and noise levels generated by the protest. Furthermore, police can choose to criminalise a protest on the basis that it is causing “serious annoyance” or “serious inconvenience”.

These wide reaching and broad-brush definitions are ripe for misinterpretation and misuse. As Amnesty International UK has observed, “The Bill itself is so broad in scope that it is a threat to everybody.” Coupled with soaring fines and prison terms for those caught in breach of these laws the future of our democracy is seriously undermined by this Bill.

Given the Government’s stance on protecting the right of Hong Kong citizens to peacefully protest it is hypocritical to allow the state to criminalise peaceful protest at its own discretion.

These provisions do not respect the right to peaceful assembly (Article 11 European Convention on Human Rights (ECHR)) or the right to free expression (Article 10 ECHR).

Police powers and oppression of marginalised groups

Marginalised communities will be negatively impacted and further disadvantaged by other aspects of the Bill which also breach their fundamental human rights.

Gypsy, Roma and Travellers (GRT)

This Bill would introduce the offence of “residing on land without consent in or with a vehicle”. If found guilty of this offence a person could be fined up to £2,500, have their vehicle confiscated and be banned from the area for 12 months. This means GRT communities will live under the threat of having their homes confiscated and being forced to leave an area.

This directly conflicts with the Court of Appeal’s finding that “the Gypsy and Traveller community have an enshrined freedom not to stay in one place but to move from one place to another.”

Friends, Families and Travellers summed up the impact of the Bill when they wrote that:

The harm created by this legislation which criminalises trespass will be felt immediately and for generations to come. It will push Gypsies and Travellers into the criminal justice system,

merely for existing nomadically. It will put communities who have been widely recognised as being amongst the most marginalised and disadvantaged groups at further risk and compound the inequalities experienced.

It is clear that there needs to be more designated areas for encampments, rather than a blanket criminalisation of the ancient ways of life of GRT communities. These provisions of the Bill are discriminatory and do not respect Article 8 of the ECHR.

Serious Violence Reduction Orders

The introduction of Serious Violence Reduction Orders (SVROs) would provide police powers to arbitrarily stop and search someone, anytime, without any reasonable suspicion. SVROs would therefore weaken already precarious safeguards that exist for stop and search and render targeted individuals from black, brown and other racial and ethnic minority groups open to potentially invasive and unjustified scrutiny. The fact that black people are nine times more likely to be subject to a stop and search than white people is a testament to this.

Undoubtedly, this would further the discrimination experienced by ethnic minority and low-income communities and funnel more young people into the criminal justice system for petty crimes. Its disproportionate impact on these communities is also counterproductive by furthering eroding these communities trust in police operations.

There has been no clear rationale for why the police need such extended powers given that evidence does not support the efficacy of stop and search. While knife crime is a serious issue any response needs to be non-discriminatory, proportionate and evidence-based. The European Court of Human Rights has determined that allowing police to stop and search without reasonable suspicion rendered an individual “extremely vulnerable to an arbitrary exercise of power” and represented a lack “of any practical and effective safeguards”.

SVROs therefore raise a number of issues under Article 8 of the ECHR.

Privacy

The Bill’s provisions for the extraction of information from electronic devices fail to protect an individual’s right to privacy under Article 8 of the ECHR. In particular the Bill:

- Places too much emphasis on victims’ consent to having data taken off their phone without considering the inherent power imbalances between an individual and a police officer. The focus on consent of the owner of the device is also misplaced as they cannot provide consent on behalf of all others whose data is stored on their device, such as family and friends.
- Does not provide sufficient safeguards to ensure that police officers and others do not simply extract all the data that is available on the device.
- Provides authority to immigration officers to collect devices as ‘authorised persons’. This is of concern, as the Bill could enable immigration officers to gather and analyse devices from asylum seekers.

Summary

This Bill presents a very real threat to human rights and if implemented as currently drafted would be a very dangerous step into authoritarianism. It is of the upmost importance that the Joint Committee for Human Rights fully consider the serious human rights implications of the Bill.

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