Justice Committee

Criminal Verdicts (Scotland) Bill

Written submission from Highland Violence Against Women Partnership

Please find the response by the Highland Violence Against Women Partnership (VAWP), outlined below. Statutory members in the partnership addressing Violence Against Women in Highland are NHS Highland, The Highland Council, the Crown Office and Procurator Fiscal Service and the Police. These members work in collaboration with a number of voluntary organisations on this issue, including Caithness & Sutherland Women’s Aid, Lochaber Women’s Aid, Inverness Women’s Aid, Ross-shire Women’s Aid, Victim Support Highland and Rape & Sexual Abuse Service Highland.

Response from the Highland Violence Against Women Partnership (VAW)

The Highland VAWP welcomes the opportunity to provide comment on the Criminal Verdicts (Scotland) Bill. We are, however, concerned at the provision of this Bill to increase the proportion of jurors required for a ‘Guilty’ verdict.

The VAW Partnership’s primary concern is to tackle Violence Against Women. This includes preventing VAW from happening, providing robust responses to perpetrators of VAW and providing effective services to both adult and child survivors.

Removal of ‘Not Proven’ Verdict

It is already difficult to provide enough evidence for sexual violence and domestic abuse cases to gain convictions. This is because these crimes often take place in private and involve only two people. Changes that Police Scotland have made to their investigations of rape and domestic abuse in particular have highlighted the number of men who repeatedly offend against women and have contributed to securing convictions against some prolific offenders, along with the improved support for victims and witness from the Crown Office Procurator Fiscal Service and third sector services. However, we believe that women and men affected by domestic abuse or sexual violence should not have to wait until the perpetrator has a significant history of this type of behaviour. Individual victims have a right to seek justice for their experiences and we have a duty to ensure that perpetrators are held to account at as early a stage as possible in order to lessen the impact on their individual victims and on society at large.

We understand that ‘Not Proven’ is used disproportionately in rape trials and that a number of survivors of sexual violence have lobbied for its removal. We cautiously welcome this proposal in the Bill. We are concerned that coupled with the other proposal in the Bill to increase the proportion of jurors required to reach a guilty verdict that we will see an increase in the numbers of perpetrators of domestic abuse and sexual violence securing ‘Not Guilty’ verdicts.
We believe that the removal of ‘Not Proven’ as a verdict should be implemented in Scotland, but that this should be one measure along with others, as recommended by Lord Carloway,
such as the removal of corroboration.

**Increase in Proportion of Jurors Required to Reach a Guilty Verdict**

We are concerned about the measure in the Bill to increase the proportion of jurors required to reach a ‘Guilty’ verdict. As juries are representative of the population, there is already a concern that some will hold particular beliefs about Violence Against Women, including the perception that women are sometimes responsible for the crimes perpetrated against them. This reduces the likelihood of a jury finding someone guilty. We commend the changes proposed by the Scottish Parliament in relation to the powers granted to Sheriffs in rape cases under the Abusive Behaviour and Sexual Harm (Scotland) Bill, but this in itself is unlikely to change some of the deep rooted attitudes that some individuals have towards rape or other forms of Violence Against Women.

The Scottish Social Attitudes Survey on Violence Against Women\(^\text{ii}\) highlights the numbers of people who still believe that women are responsible, at least in some way, for being raped. Similarly, some people’s attitudes towards domestic abuse failed to recognise the impact of psychological abuse or tried to justify a partner’s behaviour in some circumstances (e.g. it was more acceptable to slap your wife if you found out she had an affair). Especially concerning were high levels of acceptance of stalking from ex-partners and sexual harassment in public places. As juries are representative of the population, some will hold these misconceptions. An increase in the proportion required for conviction runs the risk of producing more “Not Guilty” verdicts. This is seriously damaging for survivors of domestic abuse and sexual violence.

**Potential Outcomes of this Legislation**

We believe that the potential outcomes of enacting this legislation without the inclusion of the removal of corroboration are:

- Victims confidence in the criminal justice system being significantly harmed
- Police resources being used to investigate crimes which now would be highly unlikely to secure convictions
- Organisations may begin to deter survivors from reporting if their experience is likely to compound their experiences rather than provide justice
- Cement the message to perpetrators of domestic and/or sexual abuse that they will get away with it
- Increase the belief in already prevalent rape and domestic abuse myths, in particular that women lie about rape (as there may be an increase in ‘Not Guilty’ verdicts)
Conclusion

We believe that the Criminal Verdicts (Scotland) Bill, if enacted in its current form could damage some of the progress that the criminal justice system is making in relation to prosecuting perpetrators of domestic abuse and sexual violence. We urge the Scottish Parliament not to take this Bill forward without considering other measures, such as the removal of corroboration, as to do so would be damaging to those seeking justice for experiences of Violence Against Women.

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\(^1\) Lord Carloway Review, Scottish Government, November 2011
\(^2\) Scottish Social Attitudes Survey 2014: Attitudes to violence against women in Scotland (Reid et al), ScotCen Social Research, November 2015