Justice Committee

Criminal Verdicts (Scotland) Bill

Written submission from Rape Crisis Scotland

1. Rape Crisis Scotland supports the removal of the not proven verdict. The not proven verdict is most commonly used in rape cases. According to the Scottish Government\(^1\), the proportion of people receiving a not proven verdict for rape or attempted rape was 15%, the highest for any crime type. Jury members can be notoriously reluctant to convict in rape cases, even in cases where there is significant evidence, and we are concerned that the not proven verdict contributes to wrongful acquittals.

2. An argument which has been used in the past for retaining the not proven verdict is that it at least enables complainers to be reassured that the verdict didn’t mean that the jury didn’t believe them. However, a not proven verdict is still an acquittal, and can be just as devastating as a not guilty verdict. Following an article in the Daily Record about the number of men accused of rape who were acquitted by means of the not proven verdict, a number of rape survivors and their families wrote into the paper to tell of the devastating impact this verdict had on their lives (see for example http://www.dailyrecord.co.uk/news/scottish-news/mum-who-endured-double-rape-1393744). We believe that there is no convincing argument for retaining this verdict and that moving to two verdicts of guilty and not guilty would lead to a clearer and less confusing jury decision making process.

3. Rape Crisis Scotland does not support a change in jury majority at this time. Lord Bonomy’s review recommended an increase in the number of jurors required for a guilty verdict as a safeguard if the requirement for corroboration was removed. We were concerned about the impact of this on rape verdicts, even if corroboration was removed. The reality for rape trials is that jury decision making is influenced by prejudicial attitudes and sexist stereotypes. Research indicates that pre-existing attitudes can negatively affect the way in which jurors interpret evidence in rape trials\(^2\). Research conducted in England and Wales using mock juries suggests that notions of how a ‘real’ rape victim would react influences assessments of credibility, for example in relation to delayed reporting or signs of significant physical injury\(^3\).

4. We are very concerned that, in light of what we know about the problematic attitudes which may be affecting jury deliberations on rape cases, increasing the jury majority will make it even more difficult to secure a conviction. We are strongly opposed to an increase in the jury majority within the existing system where the corroboration

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\(^1\) Criminal Proceedings in Scotland, 2012-13, Statistical Bulletin, Scottish Government


\(^3\) Ellison & Munro, ‘Reacting to rape: exploring mock jurors’ assessments of complainant credibility’ (2009), British Journal of Criminology 202
requirement has been retained. We consider that this will worsen the current difficulties rape survivors in Scotland face seeking justice.

Rape Crisis Scotland
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