Justice Committee

Offensive Behaviour at Football and Threatening Communications (Scotland) Bill

Written submission from the Harps Community Project

The Harps Community Project is core funded through the Irish Government’s Irish Government Emigrant Support Programme (IGESP). The Project has a remit to engage with Scotland’s multi-generational Irish community and those beyond our community with a view to providing support for Irish cultural activities in Scotland and fostering and celebrating cultural diversity and promoting active citizenship in a multi-cultural and plural Scotland. In this sense, the Project looks to engage with relevant cultural organisations, service providers, local and national authorities to promote and celebrate Irish heritage and cultural activities in Scotland within the ‘One Scotland Many Cultures’ framework while recognising and promoting our civic responsibility and active citizenship.

This Submission seeks to highlight and clarify the implications for expression of cultural identity and the different facets of identity this incorporates in the context of the legislation ‘Offensive Behaviour at Football and Threatening Communications (Scotland) Bill’

This Bill has implications not only within the context of football matches but also in relation to the context of civic society and the development of the ‘One Scotland Many Cultures’ strategy especially with regards to Scotland’s largest immigrant community, the Irish Diaspora. To date, this submission is the first engagement between the Scottish Executive and the broader Irish community with regards the outcomes, nature, community perception and possible impact of the legislation.

We welcome the opportunity to make a submission to the Justice Committee via this mechanism and would welcome any further opportunity to engage with relevant stakeholders including verbal representation at any stage in the development of this legislation. We hope to be kept informed at all stages in the future development of the legislation and are pleased to recognise our responsibility and citizenship in these settings. The Project recognises the need for positive, progressive dialogue surrounding the myriad of social issues which pertain to the circumstances in which the legislation has been formulated. We commend the Scottish Executive for instigating a national conversation surrounding the ‘sectarian’ concept, however there should be serious clarification regarding the implication and impact which can be stipulated through its implementation.

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Sectarian narrative

The connotations of Sectarianism in Scotland are of an inter-Christian, Catholic versus Protestant religious divide. The narrative of the sectarian framework in which this bill and its previous counterparts have been produced is rooted in this assumption and symbolised through focus on Scotland's two major football clubs Celtic and Rangers, each menacingly represented as representing two 'separate' (as opposed to distinctive but similar) religious communities, Catholic Celtic and Protestant Rangers.

Although current media, Police and political narratives support this general Catholic versus Protestant assumption, the ambiguity involved in universally labelling identity in religious terms only leaves a vacuum in which the concept of 'sectarianism' is consistently miss-interpreted. Identity derived from an intolerance or hatred of an individual or community is the antipathy of the 'One Scotland Many Cultures' concept; however expressions of identity which ignite this intolerance must not be incorporated into the solution to alienate the racist, bigoted or prejudiced view.

Bill's implications

The Bill in its current format is open to interpretation and this ambiguity is further clouded if the traditional 'sectarian' Catholic vs. Protestant narrative is implemented in execution of the legislation.

Article 1 (a) The person engages in behaviour of a kind described in subsection (2) (i) is likely to incite public disorder, or (ii) would be likely to incite public disorder

Article 2(e) The behaviour is- other behaviour that a reasonable person would be likely to consider offensive

- This could effectively criminalise expressions of national, ethnic or religious identity due to the fact that their understanding is supported by a 'sectarian' framework which simplistically equates religious faith as an all encompassing indicator of cultural identity.

- Catholic and Irish, Protestant and British become interchangeable terms. To express an Irish, British, Catholic or Protestant identity should not be the focus of legislation.

Current legislation

- The Equality Act 2010, an integral derivative of Scottish integration policy and a cornerstone of the 'One Scotland Many Cultures' concept.

- Human Rights Act 1998 / Scotland Act 1998 / protects the right of any ethno cultural religious (of current Irish/Scottish-Catholic / Irish/Scottish-Protestant or neither) community to express its non-Scottish and non-British identities with adherence to the Equality Act 2010 where the protected characteristics are not transgressed.
  (I) Schedule 19/ Part 3. Section 2 of Police (Scotland) ACT 1967
  (II) Members of Scottish Executive
  (III) Scottish Football Association (Private Body providing a public service)

Relevant stakeholder’s duty bound through existing legislation to consult with impact communities on implementation of legislation and policy in terms of protected characteristics outlined in Equality Act 2010 with specific reference in the context of the Bill being deliberated to protection of characteristics Race and Religion.

• The Harps Community Project would be happy to engage with both the Scottish Executive, Scottish Football Association, The Police and all relevant stakeholders within the directed mechanisms outlined in the Equality Act 2010/Section 149 – The Public Sector Equality Duty, which stipulates the recommendation that ‘Equality Impact Assessments’ are in-acted in terms of progressing the dialogue away from the sectarian framework and towards a greater understanding and tolerance of Irish identity within applicable settings relevant to the Bill and its wider implications and to ensure that the protected characteristics of both Race and Religion are being supplemented in relevant settings. The current Sectarian framework does not have the ability to fulfil a true narrative for these obligations.

Considerations

• This sectarian framework and the ignorance surrounding what constitutes a sectarian offence leaves this bill open to miss-interpretation by all stakeholders, The Crown Prosecution Service, Police and general public. If the Bill is being derived from a point of ignorance how can we seriously expect the relevant departments of the judiciary to uphold its credibility not to mention the perception of the general public? The nature of the dialogue surrounding the Bill constructed within these ‘sectarian’ settings and the failure of the Police and judiciary to utilise aforementioned legislation which have the mechanisms to deal with religious and racial hatred highlights the need for further dialogue surrounding the nature and expected outcomes of this bill.

• Expressions of cultural identity which manifest through language, song, dance, music or faith should not be perceived through an ignorant sectarian prism. Preconceptions surrounding cultural expression and identity with reference to the Scotland’s Irish community must be discussed out with this enforced sectarian narrative of Catholic versus Protestant.

• Expressions of Irish identity surrounding the formation of the modern Irish Republic and the history of the struggle to achieve Irish independence from Britain have and will continue to be an intrinsic and distinctive cultural indicator for the Irish Diaspora in Britain and are crucially not sectarian within
the traditional perceptions of this concept, with Irish Nationalist Politics encompassing people of all Christian denominations and none.

Reflection

The Harps Community Project welcomes the opportunity to engage with the Scottish Executive and relevant stakeholders in the continuing dialogue surrounding the progression of the ‘Offensive Behaviour at Football and Threatening Communications (Scotland) Bill’

The Project fully submits to the ‘One Scotland Many Cultures’ initiative and supports a positive and progressive dialogue to initiate meaningful outcomes which reflect the issues we are presented with.

Harps Community Project
23 August 2011