

## Justice Committee

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

#### Written submission from Professor Tom Gallagher

1. What particularly concerns me about this proposed bill is the very broad interpretation of religious hatred, particularly in section 5 'Threatening communications.

It goes considerably beyond prescribing violence or threats of violence as shown by section 2b 'the material or communication of it would be likely to cause a reasonable person to suffer fear or alarm'.

Also section 5b 'the person communicating it[the material] intends by doing so to stir up religious hatred'.

**As worded, these provisions to me (a lifelong Roman Catholic) pose a threat to religious liberties and individual freedoms that only with difficulty were conceded by state authority over a long historical period.**

2. The legislation appears to give law-enforcers the power to criminalise criticisms, insults, ridicule, satire, because of religion, and even proselytism (that involves robust rejection of other faiths).

It appears to place in the hands of 'a reasonable person' who is the adherent of a faith, the power to request the arrest of someone who is commits a non-violent act of aggression directed at their faith.

Nowhere is it explained why it is **religious hatred** that should be sanctioned in such a manner.

There are numerous other examples of prejudice some of which are expressed just as vociferously as this one:

Antagonism towards an economic system capitalism, and its chief upholders which in Scotland has been the cause (whether rightly or wrongly) of much verbal aggression and will likely continue to be so.

Antagonism towards a particular age-group ( often but not exclusively the elderly).

Antagonism towards people who adhere to a particular national identity or who are linked with a particular region.

Even antagonism towards people who are avowedly opposed to all kinds of religions.

If such legislation becomes law, it cannot be ruled out that a time will come when it is deemed necessary to be used towards people who are hostile to those who are ostentatiously secularist or atheistic in the expression of their beliefs to the extent that 'a reasonable person suffers fear or alarm'.

3. I am not content with the legal status quo concerning sectarianism. I believe there is a case for amending the existing law so as to deter aggressive behaviour with strong religious or ethnic overtones that can destroy individual lives and devastate the community to which the victim belonged. I don't believe enough has been done by the authorities to deter serious violence springing from the violent expression of group identities nor do I think that this legislation responds to what has been a terrible scourge in parts of Scotland.

Given the entrenched and complex nature of social violence in Scotland which receives most attention when expressed at football matches, but which is not confined to that milieu, I am surprised that a bill with such far-seeing implications (one that potentially could criminalise large numbers of people) has not been the result of a much wider period of consultation, involving at the very least, soccer clubs, supporters associations, groups trying to monitor and contain group hatreds, academics and community groups with knowledge of the phenomenon.

I think a longer preparatory period is necessary to ensure that religious texts themselves do not fall foul of the provisions of this bill.

**A more extended consultation process might have enabled the danger that sectarian violence will only simply be displaced by the operation of the proposed law to be included in the preparatory discussion.** What is to stop it being played out in residential areas or in particular downtown locations where the police might not have the operational resources to deal with it as effectively as at soccer matches.

My chief fear is that the bill, as worded, is far too indiscriminate and open to interpretations that could harm community relations and produce friction between sections of society and the state (particularly the police (whose legitimacy, arguably, has been eroded over the years)). If the law drags into its net large numbers of people whom much of local society does not judge to be guilty at least of a serious crime, it raises the possibility of a damaging breach between sections of society and those who maintain the law.

If a sense of grievance is heightened and certain sections of the population become more intransigent and reckless in their behaviour, due to a sense of victimisation, then the risk of increased friction and also more serious violence, cannot be ruled out.

In conclusion, my chief concerns about this bill are therefore twofold:

- a) The risks to hardwon individual freedoms concerning expressions of belief that are contained in it.

- b) The far from negligible possibility that a bill with such broad provisions could exacerbate an existing problem, spread it to social spheres where it has lain dormant, and increase the amount of violence associated with it.

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