Justice Committee

Offensive Behaviour at Football and Threatening Communications (Scotland) Bill

Written submission from Nil by Mouth

Who we are

Nil By Mouth (NbM) is Scotland’s leading sectarianism awareness charity and was founded by Glasgow teenager Cara Henderson in response to the brutal sectarian murder of her friend Mark Scott in 1995.

NbM successfully campaigned for the introduction of a new law to make religious hatred an aggravated offence and has campaigned against sectarian attitudes throughout Scottish society.

Since 2000 we have delivered, free of charge, hundreds of sectarianism awareness workshops in schools, youth groups, colleges, universities and workplaces. The charity regularly contributes to academic work on the issue and provides informed comment in the media on the subject.

Background

Recent and reprehensible threats and offences against several high profile figures have refocused minds on this problem, but we must remember that sectarianism has plagued Scotland for generations.

Since the introduction of section 74 of the Criminal Justice (Scotland) Act 2003 there have been over 2,200 convictions for religiously aggravated offences across Scotland. Recent statistics reveal that between 2006 and 2010 2,605 charges were brought under section 74 with 1,062 people being convicted.

These statistics, coupled with recent high profile incidents, illustrate that sectarianism is alive and well in Scotland in the 21st century. Sadly, these figures may only be the tip of the iceberg. We must ensure that the ongoing problem of sectarianism receives not just public attention but that further action is taken through both the Government and Judiciary to restrain and prevent sectarian behaviour.

While NbM wishes to contribute to the debate surrounding this bill we would state at the outset that the proposals contained within the bill only deal with certain manifestations of sectarian behaviour. The final paragraphs of this submission will deal with the charity’s view as to how we can best challenge sectarianism in wider society.
The Proposed Legislation

NbM has long recognised the links between sectarianism, football, the internet and threatening behaviour and have assisted with various pieces of research on these issues down the years.

We have previously campaigned for the introduction of new laws and controls to effectively tackle sectarian behaviour, many of which are directly relevant to the stated policy objectives of the bill. These include:

Section 74 of the Criminal Justice (Scotland) Act 2003 which introduced statutory aggravations for offences motivated by religious prejudice and requires courts to take any aggravating factors into account when passing sentence.

Part 2, Chapter 1 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 allows for football banning orders of varying lengths to be applied to offences of violence, disorder and stirring up hatred towards a range of protected characteristics.

Discussions regarding this bill also provide an opportunity to examine the use of existing legislation, particularly with regard to the use of Football Banning Orders.

Nil By Mouth notes with concern the recent evaluation of the use of FBO’s in Scotland by the SCCJR (1) regarding the use of FBOs across Scotland and would ask the Committee to reflect on how this sanction can be better utilised.

Given that these laws are currently in place, any new legislation must be as robust as possible and add something to the existing package of sanctions to maximise its effectiveness, both as punishment and deterrent. They must also be closely monitored by relevant authorities – including Parliament.

We would ask the committee to reflect upon the challenges encountered by agencies enforcing existing legislation, and the manner in which football clubs and governing bodies assist these agencies, in order to ensure that any new legislation is as practically enforceable as possible.

To facilitate this we would like to see the insertion of a ‘sunset clause’ which would allow an opportunity for all agencies to monitor the effectiveness of any new laws over an initial 12-24 month period.

Definition of Sectarianism

Perhaps the biggest issue surrounding this bill in both public and political discourse is that of definition.

NbM is well acquainted with the difficulties in providing a hard and fast definition of what constitutes sectarian language or act. The charity frequently receives e-mails from individuals and groups seeking clarification on our viewpoint, or challenging our assertions that a particular word or act is sectarian.
We must accept that the word ‘sectarianism’ transcends its dictionary meaning when applied to Scotland.

NbM understands that sectarianism in Scotland is a fusion of religion, politics, identity and ignorance. The context in which a particular act is performed, or certain word is spoken, is also highly significant.

While many football clubs have adopted their own codes of conduct for supporters it is also clear that there has been a marked reluctance on the part of government, police, sporting authorities and civic Scotland to providing a clear definition of words, acts or gestures which may, or may not, be viewed as sectarian.

NbM would be willing to work with the committee to explore ways in which a greater understanding of the complexities surrounding definition can be reached.

**Operational Issues**

We would request that detailed annual statistics relating to charges brought and the outcome of legal proceedings are compiled and made publicly available.

We would suggest that both breach of the peace and section 74 conviction rates provide the best form of comparison for measuring the success of any new legislation.

NbM is keen to establish what type of training the government will provide to enforcement agencies, such as the police and crown office, in order to ensure that they are equipped to deal with the various manifestations of sectarianism, and able to distinguish what is, or is not, sectarian behaviour.

NbM would like to know if the government plans to introduce a rehabilitation programme for those convicted under this legislation. Schemes are currently in operation for those convicted under section 74 and similar provision should be in place for new offenders.

If enacted, there should be a nationwide publicity campaign to promote awareness of any new laws.

**Sectarianism in Wider Society**

While the proposed legislation seeks to challenge football and internet based sectarianism, we need to understand that the key battlegrounds are the hearts and minds of our people – particularly the young.

The long term and lasting solution lies in education and awareness. Legislation must be backed up with grassroots educational and intervention programmes. Government must ensure that anti-sectarianism measures are firmly embedded in the curriculum.

Given the Christie Commission’s call for renewed emphasis on ‘preventive spend’ we would ask the committee, and government, to reflect, upon the disparity of central
funding between the £1.8 million provided to the National Football Policing Unit (2) and the £527,250 awarded for anti-sectarian educational and prevention projects. (3)

We ask the committee to urge the Government to support these projects and ensure that tackling sectarianism, in all its forms, remains firmly on its agenda during this session of Parliament.

Finally, consideration should be given to creating a nationwide fund to allow communities, voluntary organisations, supporters groups and faith communities to create and develop their own grassroots anti-sectarianism projects.

Reference Notes:


Nil by Mouth
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