Justice Committee

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

Written submission from Anonymous 23

1. Do you agree with the proposal in the Bill to repeal the 2012 Act? What are your reasons for coming to this view?

I think it is extremely important, not just for football fans but for wider society that the Act is repealed. It is not only flawed, but it is excessively discriminatory towards one particular section of society. If Scotland is to be seen as an inclusive and tolerant society, laws directed unfairly at one particular section of society cannot exist. The Act has been subject to widespread criticism by members within the justice system and by all political parties out with the SNP and as such believe the Act should be repealed.

2. Did you support the original legislation?

No. I have always taken the view that the bill was unfair, discriminatory and could be dangerous.

3. Do you consider that other existing provisions of criminal law are sufficient to prosecute offensive behaviour related to football which leads to public disorder? If so, could you specify the criminal law provisions? Or does repeal of section 1 risk creating a gap in the criminal law?

I am of the view that existing legislation such as Breach of the Peace and section 74 of the Criminal Justice (Scotland) Act 2003 to be sufficient laws which are still in place. Breach of the peace refers to disorderly conduct which is likely to cause fear, disturbance or alarm to ordinary people - in Scotland this can be prosecuted directly which is not the case for the rest of the UK, only highlighting again the lack of need for further legislation which came in the form of OBAF. As such repeal of the Act would leave no gap in criminal law.

4. Do you have a view on the focus of section 1 of the 2012 Act, which criminalises behaviour surrounding watching, attending or travelling to or from football matches, which may not be criminalised in other settings?

My personal view on this is that it is completely unjust. It can't be plausible to criminalise behaviours relating to football which in other settings are not criminalised - for example in other sports, events or happenings in everyday life. It should be the notion of all politicians and people for that matter, that a crime is a crime regardless of place, time or circumstance and not simply if you are a football fan. It is wrong to segregate and criminalise one section of society simply for enjoying a particular sport that has now been criminalised unfairly by power hungry politicians.

5. Do you consider that other existing provisions of criminal law are sufficient to prosecute threats made with the intent of causing a person or persons fear
or alarm or inciting religious hatred? If so, could you specify the criminal law provisions? Or does repeal of section 6 risk creating a gap in the criminal law?

This part of the Act has barely been used and in reality it is because it is likely that it is not even necessary at all. That being said, it would not leave a gap nor be missed should it be repealed.

6. Do you have a view on the proposed transitional arrangements in the Bill: that there should be no further convictions for section 1 and 6 offences from the date on which the repeal of those offences takes effect; and that the police will cease issuing fixed penalty notices at least from the point at which the Bill is passed?

The law from the very start has been harsh, unjust and outright appalling. What you have and I can say this from a personal view point, is a section of society who love and enjoy football, living in fear of being prosecuted, losing their jobs, being arrested, simply for fulfilling a passion of following the football team that they love.

I have a relative who was unfairly subject to 'prosecution' under the Act, who spent months fearing he would lose his job and his livelihood, worrying that he was going to be unable to provide for his family if he lost his job, only to suffer for so long for said charges to be dropped. The Act causes untold stress and worry to not only those convicted, but to their families and friends as well. Partners and relatives are left fearing that their family members will be charged and sentenced for crimes which in hindsight are found to be trivial and not worthy of criminal charges at all but in turn could ruin their lives.

It is worth noting that many of the behaviours deemed unacceptable have been agreed upon by a 'social group' (the police and politicians) and applied to one section of society (football fans) as such the crime does not define he who has committed it but rather it is a consequence of the application of an unfair law imposed on football fans by those of higher status. As such it is my view that the Act should cease to be implemented immediately and all of those cases which are still in proceedings should be dropped, and any convictions held previously from this legislation should be removed. Many football fans have been wrongly criminalised by this discriminatory law, a law which appears to be on the whole failing in practice.

7. To what extent do you consider that the 2012 Act has assisted in tackling sectarianism?

It hasn't. Scotland has always been plagued with Sectarianism - it is not just about football or football related incidents as many politicians and people would lead you to believe. It has existed in society for centuries and although it is still evident today, the OFAB has not and will not tackle it. Education is where the incentive to tackle sectarianism must begin in today's society. Current legislation was sufficient in tackling sectarian behaviour prior to the Act and is still able to do so. I'm of the view that criminalising behaviours deemed offensive does not and is not tackling sectarianism by any means but only aggravating the issue as a whole. Tackling sectarianism will not work simply by enforcing unfair laws - other legislation was already in place to do so. The government and other bodies involved must look at
how this issue can be managed and tackled in other ways be it through schools or youth clubs etc. Football fans are wrongly being labelled and it must stop.

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