Justice Committee

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

Written submission from Anonymous 3

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

Yes I agree with the proposal to repeal the 2012 Act. I have a variety of reasons for this view.

- The Act has criminalised people – young men in particular – who have not had any previous involvement with the criminal justice system (CJS) and should not and would not have had any such involvement in the absence of the 2012 Act. This has impacted on their jobs and careers, their finances and their health. It has also impacted negatively on their confidence in the CJS – and such confidence is crucial in supporting the rule of law.

- The Act has allowed – in fact encouraged – police and prosecutors to act capriciously and to attempt to stretch the boundaries of unlawful behaviour in ways that actually undermine trust and confidence in the police and in the law. The Act has brought the police, the courts and the law into significant disrepute in my view. I have personally been appalled at how this Act has been used to victimise young, often working class, citizens and to subject them to unnecessary and sometimes degrading treatment.

- The Act has criminalised activity in one context (ie in the context of a football match) that would not be criminalised in another context – this undermines confidence that the law is evenly applied to all.

- The Courts have found the Act to be largely unworkable, as has been noted in a number of judicial decisions.

- The Act has led to disrespect for important civil liberties such as freedom of speech and has been widely criticised by a range of civil liberties organisations.

- The Act should be repealed because a majority of MSPs have already voted for its repeal – not to repeal it undermines the democratic operation and voice of the Scottish Parliament.

2. Did you support the original legislation?

No. I have been opposed to the Act since its inception. The Act should never have been implemented in the first place. Its objectives were unwarranted and it was a poorly conceived and poorly drafted piece of legislation.

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?

Yes. A variety of existing legal provisions (common and statute) law already dealt with offensive behaviour leading to public disorder and repeal will not leave any gap.
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?**

I have a strong view that this focus is wrong and dangerous. From a human rights point of view, it simply cannot be acceptable that behaviour that would not be criminal in one setting is criminal in the context of football. This victimises football fans, creates challenges to be dealt with in application in the courts and ultimately undermines trust in the law.

Football fans are not pariahs: football is watched by a broad range of citizens, is largely a safe and enjoyable leisure activity and generates significant economic benefit. Football supporters are entitled to the rights and protections of the law in exactly the same way as any other citizen. They should not be singled out for arbitrary treatment.

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?**

Yes, I believe that the existing provisions of the criminal law are sufficient to deal with issues of fear/alarm or inciting religious hatred. Repealing section 6 would leave no gap – in fact, Section 6 has rarely been used since 2012 and police and prosecutors appear to prefer relying on other existing legislation.

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?**

It is in every citizens’ interest that bad law is removed as soon as is possible. I would like to see the 2012 Act repealed with immediate effect, and for any ongoing prosecutions to be dropped. Such are my misgivings about the 2012 Act that I do not believe that the convictions to date under the Act should stand. Quashing these convictions will not remove the damage caused to individuals by this poor legislation, but it could at least limit the damage and limit its future consequences.

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

Not in the slightest. All decent and right minded people are opposed to sectarianism and other legislation exists that could have, should have and is being used to tackle sectarianism. This Act has been an unfortunate side-show that has distracted attention from actually dealing with sectarianism wherever it is present and not just in the context of football.

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