Justice Committee

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

Written submission from Dr Stuart Waiton

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 am opposed to people being arrested for words they say. It is intolerant and illiberal to criminalise words.

2. Did you support the original legislation?

No.

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?

The other pieces of legislation are also intolerant and should be repealed, while the 'public order' aspect of these pieces of legislation is mythical as there is rarely, if ever, a public order problem. Again this is an illiberal and authoritarian use of unjustified force, predicated on a desire to clamp down on views or words and attitudes that are seen as unacceptable but which are not (or should not be) criminal.

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?

Yes. It is a further targeting of football fans based on snobbery. Football fans are used as guinea pigs for surveillance and regulation and receive treatment that would be entirely unacceptable to almost any other section of society.

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?

I am opposed to such legislation. Unless a threat can be proven to be genuine - a real threat - we should not treat it as a crime. As a society we should be mature enough to tell the difference between 'mouthing off' and a genuine threat. Also, people should be able to express their hatred of whoever they like – that's what
being tolerant and free means. Commentators express their hatred of football fans regularly but this type of hatred is good hatred, it seems.

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?

No

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

Sectarianism in terms of a religious/politically driven prejudice is dying out and has little basis in Scottish society. Unfortunately, this legislation is helping to create a new type of sectarianism – one based on fans telling tales on one another to the police and (especially Rangers fans) being bitter and angry about the 'grassing' that has been encouraged at games.

See the article:
http://www.tandfonline.com/doi/abs/10.1080/14660970.2015.1133413?journalCode=fsas20 looking at this new sectarianism and for a wider look at the 'snobbery' involved in this act see the draft chapter:
https://repository.abertay.ac.uk/jspui/handle/10373/1801

Dr Stuart Waiton
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