Justice Committee

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

Written submission from Brian Gilmour

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 agree with the proposal to repeal the bill. It is bad legislation that does not deal with the issues it purports to solve. There was legislation in place that could deal with the problems of “offensive songs”. Moreover the issue of what is and isn’t offensive is (as we’ve seen in the courts) completely subjective. Consequently we’ve seen the need to send police on training courses to learn what to be offended by with individual officers confiscating wholly legitimate items. I also object in principle to the concept of branding behaviour illegal ONLY when undertaken by football fans. If certain behaviour, songs and communication merits being outlawed, it merits being outlawed whether it is connected to football or not.

I also believe that this poorly drafted legislation has had an impact on the game. I have spoken with non football fans and people in business who would be considered corporate partners who have been put off our game due to the language around behaviour of fans – language spawned by this legislation.

2. Did you support the original legislation?

I never supported the original legislation. I believed that there was sufficient legislation in place to deal with any illicit behaviour – The existing law just needed to be applied.

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?

Of course there is sufficient existing legislation. There are laws in place to deal with threatening behaviour and communication. There are laws in place to deal with racist behaviour and legislation in place to deal with sectarian behaviour. All this law has done is blur lines in the debate on sectarianism in this country and made a diminishing problem more difficult to define and stamp out.
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?

Absolutely. If behaviour is criminal it is criminal whether I am travelling to a football game, rugby game or a tea dance!

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?

Crime and Disorder Act 1998 section 33 and section 96 (inserted by Criminal Law Consolidation (Scotland) Act 1995

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?

This very poor piece of legislation and all it's consequences for a deteriorating relationship between young football fans and the police mean that it should be repealed and ended ASAP

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

Patently the legislation has been an abject failure. I have been attending football at Celtic Park for over 40 years and the singing this legislation was designed to eliminate had virtually disappeared until the act became law. As you will be aware Scotland had an anti Catholic/Irish Immigrant problem and since football is a reflection of wider society the end of this problem in Scotland was being reflected in the end of this issue in Scottish football. The songs were declining and almost out of use. Those who sing songs at football tend to be young people and as we know young people like to push boundaries set by us older folk. The implementation of this bad law has seen a reintroduction by some of songs that, whilst neither racist nor sectarian, people like me would prefer not to be sung.

The increasing level of charges under this act also illustrate that “offences” are not going down. From the evidence of my own ears and the evidence of government statistics this act has singularly failed to stamp out the very behaviour it was designed to eradicate. It should be repealed at the earliest opportunity.

Brian Gilmour
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