Justice Committee

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

Written submission from Patrick Donoghue

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 repeal of this Act. Why should singing a song which is perfectly legal at a concert be criminalised when it is sung at a football match? Laws already existed prior to this Act to deal with sectarian and racist behaviour. This act has criminalised expressions of “distasteful political agendas” to quote ACC Bernie Higgins. For the Police to decide what constitutes “distasteful political agendas” is the hallmark of a police state not a liberal democracy.

2. Did you support the original legislation?

No I did not.

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?

Clearly existing provisions are sufficient, as a young Rangers fan discovered to his cost in 2008 when he was arrested and later successfully prosecuted for singing “The Famine Song”.

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?

This is the crux of the matter – it makes singing songs which are perfectly legal at concerts or at rugby matches into criminal offences when they are sung at football matches.

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 existing provisions are sufficient – Section 74 of the Criminal Justice (Scotland) Act 2003 relating to religious prejudice and section 96 of the Crime and Disorder Act 1998 relating to racially aggravated offences. The judgment in the William Walls case shows clearly that legislation already existed and was sufficient to deal with this.
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 sooner this law stops impacting people’s lives, the better.

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

The Act has been completely irrelevant in tackling sectarianism.

Patrick Donoghue
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