Justice Committee

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

Written submission from Terence Gallacher

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.

Legislation which criminalises a section of the community for acts deemed legal by the rest of the community does not belong on the books of a democracy!

The policing of the act in terms of the numbers of police, their behaviour and the resources committed by the government to prosecuting individuals and appealing judicial decisions they do not like is totally out of proportion with the purported "crimes".

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?

Other existing provisions of both criminal and common law are sufficient to prosecute offensive behaviour leading to public disorder wherever and whenever it arises. e.g. Breach of the Peace, Section 74 of the Criminal Justice (Scotland) Act 2003, Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010.

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?

There should be no law that only applies to people based on race, creed or which sport they follow!

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?

Section 6 has been seldom used since the act was introduced. Prosecutors regularly use other legislation, e.g. Communication Act 2003.
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?

As I have stated the law should never have been enacted in the first place. The act should cease to be used against football fans immediately! Cases that have not been concluded should be dropped and previous convictions quashed!

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

None whatsoever!

Terence Gallacher
12th August 2017