Justice Committee

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

Written submission from Unite Scotland Young Members Committee

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

As a committee we believe this law is completely unnecessary given the multitude of offences already in place to deal with hate crimes, and that it is also illiberal in its application solely to football fans. To no other group in society do we consider the actions of 0.009% to justify the repression of freedom of speech and movement (by way of application if not wording) based on choice of sport. Football supporters are citizens like any other and they should not be segregated under this or any other law. That football is perhaps the only sport with a mass working class following is not lost on us and we believe this law has been forced upon supporters by those with no real understanding of the sport and its place in our communities.

As a youth committee we are particularly disturbed by the impact this law has had on young supporters: since the inception of this act 71% of charges have been against those 30 or under, and 35% against those aged 20 or under. By the Scottish Governments own admission, contact with the justice system only increases the chances of re-offending and in its ‘evaluation’ in 2015 fan and stakeholder respondents expressed disquiet at how the act is perceived to target younger fans, although as we have shown this isn’t perception, it’s reality. These are charges which can see people lose job opportunities, miss time from education and be forever marked with a ‘hate crime’ on future disclosures. Both the creation and application of this law have served to demonise and disillusion a whole section of society, creating a parallel justice system which specifically targets football supporters.

This law has created an atmosphere of hostility, particularly when young people are targeted. Videotaping whole sections, escorting young people and dawn raids are inflammatory and unnecessary actions serving only to drive further wedges between the police, the government and fans. As fans ourselves we are well aware of the unwillingness to cooperate with Police Scotland that many at the grounds feel. The repeal of this act will not solve that overnight, but it would be the first step to fostering a relationship based on mutual understanding and constructively working to improve the situation. That this law can sow the seeds of injustice, is a threat to the validity of the justice system as a whole. It serves only to undermine the trust between a whole section of society and its belief in fairness under the law. One would hope that by bringing fewer charges under a disputed law that we can free the time of the system to deal with those crimes worthy of it. In the 2015 evaluation the police themselves highlighted a number of concerns; noticing the strain on fan-police relations, they also voiced concerns that it diverts resources away from more violent risk groups. The repeal would free them up to deal with more inflamed situations. Law and order does not break down within sight of a football fan. All we ask is that football fans have the same civil liberties and respect as any other citizen.
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 correct application of the law, as used in any other scenario outside football, should leave no gap. Specific examples have been given such as common law Breach of the Peace, Section 74 of the Criminal Justice (Scotland) Act 2003, and 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?

Its use by the police has generated many instances of resentment between them and fans, and the sooner they drop it, the better for the future of that relationship. We believe that as things currently stand there is an environment of unease and distrust amongst many fans and the police. An end to the video recording, kettling and general harassment that has become the norm for many fans under this law would massively increase the enjoyment of those at football games.

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?

We have no particular view on section 6 except to note the very small number of charges and that we do not wish to see this section prejudice the repeal of Sections 1-5 which is our priority.

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?

We believe that all proceedings involving the 2012 Act should be dropped at the earliest possible opportunity and that all convictions obtained through it be quashed. The Act was unjust and illiberal from its very inception and we can think of no reason to uphold the criminalisation of any supporter who has been targeted by it.

7. To what extent do you consider that the 2012 Act has assisted in tackling sectarianism?
This act is paraded as an anti-sectarian law when it appears to be nothing of the sort. Only 15% of charges last year were of a religious sectarian nature and they have made up only a quarter of the charges brought under the lifetime of the Act. We believe the lack of religious sectarian charges shows how this law has been used more widely to clamp down on political expression and freedom of speech.

Working with the community programmes that many clubs have in place is a far better way to build the trust and support of young fans rather than criminalising them. Many of the issues which are highlighted at football matches and other sporting events are manifestations of wider society which cannot be dealt with solely in these arenas. We do not pretend to have the answers to such problems but believe that a joined-up approach with the active support and participation of all stakeholders is a must.

Unite Scotland Young Members Committee
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