Justice Committee

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

Written submission from Jim Blyth

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 agree. There are hate crimes in Scotland which have no separate legislation aimed at the perpetrators. There were circa 46 religious hate crimes around football which is less than 10% of the total identified religious hate crimes in Scotland of 719. Given the language around the Act that it is meant to tackle sectarianism it is obviously failing in that, to tackle the source.

The resources put into prosecutions are better spent elsewhere in dealing with other hate crimes which are on the increase such as sexual orientation, disability and the thousands of annual racial hate crimes which although falling, are a stain on our nation.

2. Did you support the original legislation?

No. The idea that football fans could be criminalised for behaviour which would not be punishable elsewhere is illiberal and a backward step. Football fans have been criminalised in some cases for behaving in the same way as many edgy comedians who sell out shows at the fringe. Young men being arrested at football for swearing, is ludicrous, as is people being arrested for singing songs that are sung publicly in bars, every night of the week in Scotland.

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?

Yes existing provision is sufficient. We have the ludicrous position of 140 charged under the Act at the Scottish Cup Final. How has that changed since say the 1980 Scottish Cup Final where a more serious pitch invasion took place? Circa 80% of those charged this year are charged under the category of Threatening Behaviour. That is behaviour replicated on many streets of Scotland sadly but which is dealt with by specific existing legislation. There would be no gap in criminal law and to suggest there would be is disingenuous.

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?

See responses to 3. In addition I have concerns about the resource being given to this needless legislation where there is obviously need in other areas. I have read recently of potential strikes by train staff serving Balloch and Helensburgh (possibly
replicated elsewhere). The intolerable anti-social behaviour train staff and passengers often have to put up with is not subject to specific criminal legislation but is often a barrier to many people's usage of public transport. Anti-social behaviour on public transport in a football context is dealt with by OBFA but similar anti-social behaviour is dealt with under existing legislation. The absence of specific legislation dealing with "offensive behaviour in a number of contexts suggests that it is thought of as ineffective at altering behaviour, so why is it considered effective in a football context.

The resource allocated to football policing (often unnecessarily given stewarding levels paid for by clubs) would be better and more effectively targeted elsewhere.

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?

There is an imbalance in Section 6 between the need to effectively legislate for this behaviour and the number of specific charges since the act was introduced. This suggests difficulties for legal authorities in having sufficient evidence to charge rather than the number of potential threats being made. There is also the issue of why there is a need to legislate separately on inciting religious hatred when there is much larger number of incidents of hate crimes based on race or sexual orientation. If these other areas are being dealt with effectively, then why the need for separate and under-used legislation, on religious hatred (statistically less prevalent)?

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?**

I'm in favour of ceasing prosecutions and absolutely minimising any more unnecessary time or resource being spent on prosecuting existing cases under this flawed legislation.

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

I believe it is ludicrous to suggest that the 2012 Act has tackled sectarianism and that it covers up the wider issue of the source of sectarianism in our society. This Act has been created with the aim of showing the Scottish Government to be tackling Sectarianism but their own statistics show sectarianism at football to be a tiny proportion of the problem. As mentioned earlier in my submission this year of the 719 identified religious hate crimes only 46 are identified as being linked to charges under the Act e.g. 6.5% of the problem.
The Government is using this legislation to create headlines and to divert attention away from the need to tackle the much bigger issue of sectarian marches and where sectarianism originates.

As the Catholic Church has repeatedly stated it is anti-Catholicism which is at the core of sectarianism in Scottish society. 56% of religious hate crime directed at 17% of the population. The growth in anti-Muslim hate crime in Scotland is also evidence of the government’s failure to adequately legislate and police across society rather than in football only.

Focus on religious hate crime also minimises the real issues of homophobia and the rise in hate crimes against those with disabilities. Under the Act homophobic or disability driven hate crime charges are at tiny levels but should have a much bigger focus comparatively in Scotland.

Please support the repeal and remove this illiberal and iniquitous Act.

Jim Blyth
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