Justice Committee

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

Written submission from Paul Quigley

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 the Act. There are two fundamental reasons for my opposition to this legislation.

Firstly, laws should apply universally. To create a law which only applies to one sector of society is discriminatory by definition.

Secondly, it is both dangerous and absurd to criminalise something as subjective as offensiveness. What one person finds offensive another may not. To outlaw offensive behaviour in any context presents an immense danger to freedom of expression. In practice, this has created a broadening blurring of the boundaries of legal expression, resulting in ambiguity in law. It is one thing to criminalise hate speech and behaviours of that nature, but to criminalise expressions of political and cultural expression represents a chilling threat to our civil liberties.

As an individual I have also had direct experience of this legislation. I addressed the Public Petitions Committee as a representative of Fans Against Criminalisation in January of 2016 to call for a full review of this law with the view to move towards a repeal.

2. Did you support the original legislation?

No. It is with regret that I note that my worst fears regarding this law dating back to 2011 have been realised. Evidence was heard by the Justice Committee at this time, and the Government was continually told to reverse course by academics, lawyers, football fans and civil rights groups. Sadly, many of their predictions have come to fruition.

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 only additional offence created by section 1 is the ‘offensive behaviour clause’. Protections already exist for the standard protected characteristics such as race, religion, sexuality, gender, disability etc.

Law should apply universally. Football fans should not surrender their basic civil rights with the purchase of a match ticket.
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?

Again, laws should apply universally. The criminalisation of behaviours applying to those travelling to and from a match, or perhaps watching a football match, that would not apply to people travelling to a rugby match or watching a tennis match highlights the absurdity inherent within the Act.

In theory such an approach is preposterous and in practice it cannot feasibly be policed sensibly.

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 very rarely been used at all since 2012 and it is evident from a simple analysis of the Government’s own statistics that other laws tend to apply in these instances, thus no gap would be left by its repeal.

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 law should be repealed immediately. With each passing week that goes by with this law on the statute books, more people will be needlessly harassed, intimidated, arrested, charged and possibly convicted and the human cost of all of this has to be considered.

I agree with the proposed transitional arrangements put forward in the Bill.

There should also be an appeals process for those previously convicted if the law is repealed.

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

I would refer to the submission made to this committee by the Law Society, which has noted that because this legislation does not create any new crime in regards to sectarian behaviour, it could not have had any impact at all in helping to tackle sectarianism.

Paul Quigley
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