

Justice Committee

Criminal Justice (Scotland) Bill

Supplementary written submission from Colette Barrie

In calling on the Scottish Parliament to urge the Scottish Government to pass new Criminal Justice System legislation which allows for the retrospective abolition of the corroboration requirement thus ensuring full access to justice for victims of crime, mine is not a lone voice.

As the debate regarding the proposed abolition of corroboration continues, much attention is given to the thoughts and opinions of various professional agencies and bodies. Although several victim organisations are mentioned, I don't believe that there is equity in the coverage given to them and that given to criminal justice professionals. One may argue that the criminal justice professionals have a greater understanding of the minutiae of the legal process and therefore a greater understanding of how abolition may threaten or impact upon the delivery of such. However, of those whom I have heard speak against the abolition of corroboration, none have spoken of the victim with any tangible, genuine compassion. I detect a lack of victim empathy – for anyone who does sincerely empathise with the victim would surely not stand against a legislative change which will give them access to justice.

On 13th November 2013, Scotland Tonight featured an interview with Kenny MacAskill regarding the proposed Criminal Justice (Scotland) Bill and included footage of Derek Ogg, QC, sharing his opinion as to why the corroboration requirement is necessary.

(<http://video.stv.tv/bc/news-131113-st-justice/?redirect=no>)

During his 'summing up', Mr Ogg gives the impression that Law & Order are somehow quite different from Justice. Perhaps he agrees with the late American Supreme Court judge, Oliver Wendell Holmes, that 'This is a court of law, young man, not a court of justice'?

Mr Ogg concludes with part of his job being to protect people against wrongful conviction and this being 'part of the justice game'. Justice game? I did not know that justice is a game. Perhaps though Mr Ogg has voiced what many have long suspected as 'game' suggests winners and losers; more skilled, practised and cunning opponents succeeding over less skilled, less practised, less cunning ones. Yet the responsibility for protecting people from harm, for administering appropriate punitive measures to those who are guilty of causing harm and for ensuring the safety of current victims whilst preventing offences against future ones is surely no 'game'?

I share Mr Ogg's desire that no innocent person is wrongly convicted. I doubt that anyone, anywhere in Scotland, wants such a thing. However, in his passionate stating of what seems such an obvious and fundamental tenet, his defence of the needs of the accused seems to eclipse the needs of the current victim and does not heed the danger posed to future victims should a guilty person be acquitted. Such a

person may be guilty of further crimes which may be fatal to innocent victims who need not have been victims if justice had been put first and the need to 'win the game' put second.

Law and order exist for the purpose of establishing justice and when they fail in this purpose they become the dangerously structured dams that block the flow of social progress. (Martin Luther King, Jr.) Social progress in this context being the continued advancement which the Scottish legal system is making towards public protection; safeguarding communities by punishing perpetrators, monitoring / rehabilitating offenders and protecting victims.

The corroboration requirement is a keystone in the 'dangerously structured dam' and it has blocked justice for far too long.

In offering to give oral evidence to the committee, my hope was to further promote the victims voice in this debate. In my written submission in September 2012, I included comments from other victims / supporters who are signing my petition. I now do so again:

JB

The abused need all the help they can get, and the least we can do is give them justice.

VW

I am a victim of rape, as far as I know I am his second victim with no justice!

MK

Survivors of abuse must have the full backing of the Law.

MA

I am part of a group of women survivors who want to change the law in Scotland so that victims of sexual violence get the justice that they are currently denied.

SA

Anyone with a heart would care and want this law changed.

LS

Justice cannot ever be served if accused are able to avoid a trial based on this requirement and irrespective of the quality of the evidence.

NT

I think children who have been abused deserve to see justice being done.

LM

Justice should lie with the lay people (juries) not advocates who have a vested interest.

LG

I'm tired of victims of sexual abuse not receiving justice when they're brave enough to strive for it, and laws like this play easily into the hands of attackers. A few of my small circle of friends were raped as very young women (all bar one by her boyfriend at the time) but we all know it's hardly worthwhile even reporting it, the men know this best. It feels like it's the last crime that isn't seen by the authorities as a real crime, it's like the authorities play lip service to it. Many men just don't see rape as a crime.

RJ

Justice for victims they are going through enough without this extra burden

JH

Because the current system is unjust

ED

This is important because justice for victims of crime particularly victims of sexual abuse is very often not served.

CM

As a counsellor working in the field of domestic and sexual abuse for decades I am appalled that victims have to suffer such an aggressive and adversarial so-called 'justice' system.

VC

The low rate of conviction is the tip of the iceberg, in no other crime would the victim be asked how they were dressed, past history of partners and trivia like this?

In his Review Report, Lord Carloway quoted Gladstone when he cited: Justice delayed is justice denied. In my petition, I express my belief that justice has been delayed for far too long and thus has been denied for far too many for far too long.

In this addendum which now contains several quotations from others, I would like to conclude with the following:

'Justice for crimes against humanity must have no limitations' (Simon Wiesenthal) Hence why the War Crimes legislation is retrospective. 'Crimes against humanity' includes rape... or any other form of sexual violence of comparable gravity; other inhumane acts of a similar character intentionally causing great suffering or serious bodily or mental injury. In describing the effects and impact of Child Sexual Abuse (CSA) and Adult Sexual Abuse (ASA) in my submission dated 12th November 2013, I have listed traumas which satisfy this definition.

This again is why new legislation abolishing the corroboration requirement must be retrospective.

Colette Barrie
18 November 2013