

**JUSTICE COMMITTEE**

**VULNERABLE WITNESSES (CRIMINAL EVIDENCE) (SCOTLAND) BILL**

**SUBMISSION FROM: JAMES BOYLE**

**The Bill**

- a. This Bill offers no indication anyone in Government and Parliament is the least interested in the victims of this form of crime, viz. designed miscarriages of justice.
- b. It offers no protections for victims of false allegations and malicious prosecutions. Its primary purpose is conviction, its secondary purpose relates to political PR and spin with a view to securing office.
- c. It is designed to increase the number of convictions without regard to whether or not there is a crime or if the accused committed the crime if there is one.
- d. It offers no mechanism whereby victims accused and other accused persons can access the Human Rights and Fundamental Freedoms purportedly but not secured to us.
- e. It offers no mechanism whereby the criminal State's victims can access an effective remedy and redress against their abusers, whether these be police, COPFS or court personnel.
- f. It offers no means whatsoever that enable acquitted persons to resume their lives as were prior to the onset of such criminal enterprises as I have witnessed.
- g. By intensifying current rigging measures this bill enhances the means of prosecution; giving no indication the authors respect Human Rights legislation or human life for that matter.
- h. These proposals are riddled from first to last with deeming measures designed to circumvent the need for investigations and the production of evidence prior to conviction.
- i. The standard of evidence required in solemn proceedings? "No smoke without fire".

**Policy Objectives of the Bill.**

- a. No quibble with special measures for children.
- b. What is a "vulnerable witness"? No definition. Currently anyone who makes an allegation of or purporting to be of a sexual nature.
- c. Those who level such false allegations are axiomatically deemed vulnerable.

- d. This deeming exemplifies the patent bias inherent in current practice and these proposals.

**NB: victims accused are vulnerable; criminal complainers are criminals.**

- e. Pre-recording of adults is entirely unacceptable. If I cannot challenge then there can be no fair trial and no Right to such – a persistent and continuing diminution of supposed Human Rights.
- f. Existing evidence from trials I have been involved in demonstrates criminal complainers do not necessarily offer the same story/evidence offered in earlier proceedings and statements. This bill makes no attempt to address this fact, consequently victims accused will continue to be denied fair trials and jurors denied vital evidence.

**Vulnerable Witness.**

- a. This bill fails to define what a vulnerable witness is. The phrase is a designedly dangerous catch all that fails to differentiate between legitimate complainers and criminal complainers.
- b. Ground Rules – again, no definition.
- c. In what ways will such hearings address false allegations and police and COPFS choices not to conduct investigations of allegations?
- d. Appropriate Questioning – again, no definition.
- e. Current Practice – favours criminal complainers who prosper from current provisions whilst committing crimes, e.g. lying to police and COPFS personnel and to jurors.
- f. Commissioner: judges and sheriffs cannot be relied upon to act independently or secure accused persons Rights to them. This bill offers no means of holding such ‘commissioners’ to account.
- g. There is no requirement the police and COPFS provide commissioners with a schedule demonstrating the steps they have taken to fulfil their legal and common law duties and no requirement they demonstrate they have acted in accordance with victims accused/accused persons Rights, for example, a detailed schedule of an independent and impartial investigation; consideration of the uses homophobia is being put to.
- h. What happens when and if an investigation is undertaken – not guaranteed – and further, contradictory evidence revealed? The Liam Allan scenario, for example, where police personnel chose to withhold evidence that demonstrates a complainer has been lying, in order to secure conviction and preference.

- i. What happens when no investigation is undertaken and authorities choose to deem a fabrication true in the absence of evidence? For example, when a complainer alleges someone else heard a news broadcast that 'triggered' her 'recovered memories'? Specifically, when someone claims that someone else heard a radio news broadcast that has 'triggered' supposed 'suppressed memories'? Neither the police nor the COPFS discharged the duty to investigate and thereby establish the fact but deemed the lie true. This lie then becomes the 'truth' and is treated as such by sheriffs, judges, jurors and others, for example, in the civil field, the General Teaching Council. This bill chooses to ignore such inconvenient facts in order to secure convictions without regard to facts or justice.
- j. Does this bill provide an "effective remedy" to the person who believes he is being fitted up by the police and COPFS? Of course it does not.