

**Impact case study (REF3b)**

<b>Institution:</b> University of Stirling
<b>Unit of Assessment:</b> C20 Law
<b>Title of case study:</b> Hate Crime and Sectarianism in Scotland
<p><b>1. Summary of the impact</b></p> <p>Research by Dr Kay Goodall and Dr David McArdle has impacted on public policy debate and law making beyond academia in the inter-related fields of hate crime, sectarianism and football related disorder in Scotland. Their research underpinned subsequent activities which:</p> <ol style="list-style-type: none"> <li>(1) enriched and informed the development of Scottish Government policy and the passing of the controversial Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 by the Scottish Parliament;</li> <li>(2) facilitated the participation of and communication between key non-academic stakeholders in policy debate; and</li> <li>(3) disseminated a range of views for these stakeholders.</li> </ol>
<p><b>2. Underpinning research</b></p> <p>The staff involved in this case study are members of the Stirling Law School, Dr Kay Goodall (Senior Lecturer in Law) and Dr David McArdle (Senior Lecturer in Law). Their research made a distinct and material contribution to the impact described in this case study.</p> <p>Dr Goodall has developed a substantial body of research on hate crime in the criminal law. This has been developed and articulated throughout a range of articles, including Dr Goodall's 2009 International Journal of Human Rights article 'Challenging Hate Speech: Incitement to Hatred on Grounds of Sexual Orientation in England, Wales and Northern Ireland'. This paper examines the pieces of legislation that attempt to criminalise hate speech in this context and considers whether they can be kept sufficiently narrow to protect freedom of expression. It concludes that in the UK, closely drafted legislation to combat hate speech may indeed have a useful impact and need not lead to restrictions on freedom of expression. These same legal and ethical issues are further probed by Goodall throughout her body of work relating to the use of legislation to criminalise hate speech. Dr Goodall has continued her exploration of these issues, focusing on the expression of hate crime in sectarianism and racism, with a specific article on sectarianism in the criminal law (Edinburgh Law Review 2011) and a major project on conceptualising racism in Scots Criminal Law. Her expertise in the field of hate crime and legislation has had a substantial impact beyond academia on policy debate and law making on hate crime in Scotland during the current REF period.</p> <p>While at Stirling, Dr McArdle was a co-author of the 2011 Scottish Government report on football fan banning orders. This report was one of the key starting points for the Scottish Government when developing a new policy in 2011-12 on how best to deal with increasingly serious sectarian public disorder (which in Scotland is often related to rival football fans). The report found that while the implementation of existing banning order legislation had improved and that the banning orders may have been of increasing utility in dealing with overall levels of disorder, there were a number of important issues which required action to improve effectiveness. As detailed in section 4, Dr McArdle's research expertise in the area of football banning orders, as articulated in the official Scottish Government report, had an impact beyond academia on the development of policy and law on football-related hate crime in Scotland during the current REF period.</p>
<p><b>3. References to the research</b></p> <p><b>Refereed journal article</b></p> <p>Goodall K. (2009) Challenging Hate Speech: Incitement to Hatred on Grounds of Sexual Orientation in England, Wales and Northern Ireland, 13(2-3) <i>International Journal of Human Rights</i> 205. <a href="http://www.tandfonline.com/doi/abs/10.1080/13642980902758127">http://www.tandfonline.com/doi/abs/10.1080/13642980902758127</a></p>

Goodall K. (2011) "Tackling Sectarianism Through the Criminal Law", *Edinburgh Law Review*, 15 (3), pp. 423-427. <http://www.eupublishing.com/doi/abs/10.3366/elr.2011.0060>

Goodall K. (2013) Conceptualising 'racism' in criminal law, *Legal Studies*, 33 (2), pp. 215-238. <http://onlinelibrary.wiley.com/doi/10.1111/j.1748-121X.2012.00244.x/abstract>

### Scottish Government report

Hamilton-Smith N., Bradford B., Hopkins M., Kurland, J., Lightowler, C., McArdle D., Tilley N., (2011) '[An Evaluation of Football Banning Orders in Scotland](#)', Scottish Government, Edinburgh,.

### Grant awards

Hamilton-Smith N., Bradford B., Hopkins M., Kurland, J., Lightowler, C., McArdle D., Tilley N., '[An Evaluation of Football Banning Orders in Scotland](#)', Scottish Government, August 2010 – January 2011, £40,000.

Goodall K., Royal Society of Edinburgh Workshop Award, to support the project "Conceptualising the 'racial' in Scots Criminal Law", awarded by the Royal Society of Edinburgh for period 1 April 2011 – 30 June 2012, £7187.

## 4. Details of the impact

### Context to impact

In 2011, as a result of a sustained increase in violence and public disorder at Glasgow Rangers and Glasgow Celtic football matches, which was closely related to deep-rooted sectarian (i.e. Protestant / Roman Catholic) tensions in West Central Scotland, the First Minister of Scotland, Alex Salmond, chaired a "Football Summit", which was attended by Scottish Government Ministers, the Police, football clubs and football authorities. These sectarian tensions also reflected long-standing racism directed against Irish immigrant communities in Scotland, and historic cultural associations between Glasgow Rangers fans and extremist Ulster Unionism and Glasgow Celtic fans and militant Irish Republicanism. Following the summit, sectarian and offensive behaviour by football fans and related threatening communications were identified as priorities and the Scottish Government introduced highly controversial legislation in the Scottish Parliament, which was passed as the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

The expertise of Drs Goodall and McArdle, as articulated and demonstrated in the underpinning research, had a distinct and material impact beyond academia by informing and enriching the Scottish policy debate on hate crime and on the development of legislation by the Scottish Parliament and Scottish Government in the following ways.

### **Impact on policy beyond academia**

Dr Goodall's body of work has showcased her expertise on the interaction between hate crime and legislation. She was awarded funding in 2011 by the Royal Society of Edinburgh and the Clark Foundation to organise a colloquium, seminar and workshop on "Conceptualising the 'racial' in Scots Criminal Law". The events took place in October 2011 and April 2012. Non-academic participants included the Scottish Government, the Crown Office and Procurator Fiscal Service (i.e. the Scottish public prosecutor's office), the English judiciary, the Equality and Human Rights Commission, the Scottish Police, local government and Women's Aid Edinburgh. This research-based leadership had impact by enriching public policy debate beyond academia on legal aspects of race crime and sectarianism (which are often inter-related in Scotland) by facilitating the participation of and communication between these key non-academic stakeholders, and by disseminating a range of views for them. Dr McArdle was part of a multi-disciplinary team of experts awarded £40,000 by the Scottish Government to inquire into the use of Football Banning Orders in Scotland, specifically their perceived under-use as a sanction for those convicted of sectarian-motivated offences associated with football matches. The research was completed in

April 2011 and was published by the Scottish Government in report form in July 2011. By co-authoring a report published by the Scottish Government, Dr McArdle impacted on Scottish public policy development beyond academia by enriching and informing debate between key stakeholders, including the Scottish Government itself. Then, as a result of his co-authorship of the report and therefore his demonstrated expertise in the area, the Scottish Government asked Dr McArdle and Niall Hamilton Smith (also of Stirling University) if, in conjunction with the Scottish Government Community Safety Unit, they would organise a one-day workshop for thirty invited key participants including senior Scottish Government officials, the Scottish Police and other non-academic stakeholders to facilitate discussion of the contents of the highly controversial Offensive Behaviour at Football and Threatening Communications (Scotland) Bill 2011. The event was held in November 2011. Dr McArdle's research-based leadership in co-organising the workshop in conjunction with the Scottish Government impacted on public policy development beyond academia by facilitating the participation of and communication between these non-academic stakeholders in the debate on policy development, and by disseminating a range of views for them.

Dr Goodall and Dr McArdle are also co-investigators on a multi-disciplinary team which in 2013 received £157k funding from the Scottish Government to study the operation of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. The team's first report will be submitted to the Scottish Government in November 2013 (i.e. within the current REF period). They are therefore continuing to impact on Scottish public policy development beyond academia by enriching and informing the understanding of the Scottish Government and other key non-academic stakeholders in this controversial area.

#### ***Impact on law-making by the Scottish Parliament***

As a result of their expertise as articulated and demonstrated in the underpinning research, Drs Goodall and McArdle were invited to give evidence to the Justice Committee of the Scottish Parliament on the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill 2011 as part of the formal law-making process. Their evidence, which is extensive and drew upon the ideas developed in the underpinning research, is available on the official record of the Scottish Parliament (see section 5, para.4 below). The research therefore contributed to the debates, scrutiny and law-making processes of the Scottish Parliament and had an impact beyond academia by enriching and informing law-making and public policy in Scotland.

Dr Goodall and Dr McArdle were cited frequently by the Justice Committee in its Stage 2 Report on the Bill, which is also part of the law-making process in the Scottish Parliament (see section 5, para.5 below).

The Justice Committee specifically requested further clarification from the Scottish Government in respect of several of the points Dr Goodall and Dr McArdle had made, which the Scottish Government undertook to do when it published its response to the Justice Committee's report in October 2011. Dr Goodall and Dr McArdle also provided written submissions on the Bill to the Justice Committee, which was underpinned by their research (Dr McArdle's submission was co-authored with Dr Sarah Christie of Robert Gordon University). Dr Goodall's submission was cited in debate prior to her giving evidence to the Justice Committee by Graeme Pearson MSP and Hamsa Yousaf MSP, and by John Finnie MSP and the Lord Advocate at a later meeting of the Committee. It was also cited at First Minister's Question Time in the Chamber by Roderick Campbell MSP. Mr Richard Foggo, Head of the Scottish Government Community Safety Unit and a member of the Scottish Government team that developed the Offensive Behaviour Etc (Scotland) Bill 2011, said on the Official Record of the Scottish Parliament during the passage of the Bill:

"I note Dr Kay Goodall's excellent evidence to the Justice Committee [i.e. of the Scottish Parliament]. I recommend it to the committee not because it supports our position, but because it is fundamentally good-quality thinking that challenges us in the bill team. I have no hesitation in recommending to you evidence that challenges some of our positions."

Dr McArdle's submission was cited by Alison McInnes MSP when questioning the Justice Minister Roseanna Cunningham MSP in Committee, and was cited subsequently in the Chamber by

Graeme Pearson MSP. The Deputy Convener of the Justice Committee invited Dr McArdle to make a further written submission, to be distributed to the committee for their information. (Please see section 5, note 6 below for links to all these citations on the Official Record of the Scottish Parliament).

## 5. Sources to corroborate the impact

1. N. Hamilton-Smith, B. Bradford, M. Hopkins, J. Kurland, C. Lightowler, D. McArdle, N. Tilley, 'An Evaluation of Football Banning Orders in Scotland', Scottish Government, Edinburgh, 2011: <http://www.scotland.gov.uk/Resource/Doc/354566/0119713.pdf>
2. Official Record of written evidence by Dr Kay Goodall to Justice Committee of the Scottish Parliament on Offensive Behaviour (S) Bill 2011: [http://www.scottish.parliament.uk/S4\\_JusticeCommittee/Inquiries/OB65.\\_Dr\\_Kay\\_Goodall.pdf](http://www.scottish.parliament.uk/S4_JusticeCommittee/Inquiries/OB65._Dr_Kay_Goodall.pdf)
3. Official Record of written evidence by Dr David McArdle and Dr Sarah Christie to Justice Committee of the Scottish Parliament on Offensive Behaviour (S) Bill 2011: [http://www.scottish.parliament.uk/S4\\_JusticeCommittee/Inquiries/OB1.\\_Dr\\_Sarah\\_Christie\\_and\\_Dr\\_David\\_McArdle.pdf](http://www.scottish.parliament.uk/S4_JusticeCommittee/Inquiries/OB1._Dr_Sarah_Christie_and_Dr_David_McArdle.pdf)
4. Official Record of oral evidence from Dr Kay Goodall and Dr David McArdle to Justice Committee of the Scottish Parliament on Offensive Behaviour (S) Bill 2011:  
 2nd Meeting, 2011 (Session 4), Tuesday 21 June 2011  
<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6359&mode=pdf>  
 6th Meeting, 2011 (Session 4), Tuesday 13 September 2011  
[http://www.scottish.parliament.uk/S4\\_JusticeCommittee/Minutes/Minutes\\_20110913.pdf](http://www.scottish.parliament.uk/S4_JusticeCommittee/Minutes/Minutes_20110913.pdf)
5. Report of the Justice Committee of the Scottish Parliament on the Offensive Behaviour (S) Bill 2011: references to evidence of Dr Goodall and Dr McArdle:  
[http://www.scottish.parliament.uk/S4\\_JusticeCommittee/Reports/OFBTC\\_Bill\\_FINAL.pdf](http://www.scottish.parliament.uk/S4_JusticeCommittee/Reports/OFBTC_Bill_FINAL.pdf)  
 paras 122, 134, 158, 166, 209, 227
6. Official Record of citation of evidence from Dr Kay Goodall and Dr David McArdle by Members of the Scottish Parliament in Parliamentary proceedings:  
 Justice Committee 21 June 2011  
<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6359&mode=pdf>  
 Justice Committee 22 June 2011  
<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6366&mode=pdf>  
 Justice Committee 23 June 2011  
<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6359&mode=pdf>  
 Justice Committee 20 September 2011  
<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6440&i=58667&c=1224758&s=&mode=html>  
 Meeting of the Parliament, 3 November 2011  
<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6504&i=59138&c=1234708&mode=html>  
 Citation of Dr Kay Goodall's contribution on the official record of the Scottish Parliament by Richard Foggo, Head of Scottish Government Community Safety and member of the Bill team: page 561 at [http://www.scottish.parliament.uk/S4\\_Bills/Offensive%20Behaviour%20at%20Football%20and%20Threatening%20Communications%20\(Scotland\)%20Bill/SPPB\\_170\\_-\\_Passage\\_of\\_the\\_Offensive\\_Behaviour\\_at\\_Football\\_and\\_Threatening\\_Communications\\_\(Scotland\)\\_Bill\\_2011.pdf](http://www.scottish.parliament.uk/S4_Bills/Offensive%20Behaviour%20at%20Football%20and%20Threatening%20Communications%20(Scotland)%20Bill/SPPB_170_-_Passage_of_the_Offensive_Behaviour_at_Football_and_Threatening_Communications_(Scotland)_Bill_2011.pdf)