



Contents -

Issue 26 December 2010

Captured British couple freed in Somalia

The insanity defence - unresolved and pressing issues

Book Review: *Tomorrow's criminals* (2009) Ashgate

Book Review: *Health and safety at work: an essential guide for managers* (2010), KaganPage

Koran burning

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Captured British couple freed in Somalia

Sally Ramage

Paul and Rachel Chandler

When a British couple, Paul and Rachel Chandler, pleaded with the British Prime Minister to intercede on their behalf for their freedom from Somali pirates, he refused, even though they argued that their kidnappers' expectations of a ransom payment had been raised by the election of a new British government. They had been sailing around the world since their work retirement when they were captured by Somali pirates who demanded a ransom and had imprisoned them for over one year until a ransom was paid in November 2010. The UK Government's policy of not making or facilitating substantive concessions to hostage-takers, including the payment of ransoms meant that the Chandlers had to endure the lengthy capture until funds were raised from other sources, although the previous British Prime Minister Gordon Brown, MP, had Gordon Brown, the Prime Minister, had urged the pirates to release the couple. 2 The Chandlers are very lucky to be alive, considering that many other captives has died.3 In April 2009, Somali pirates had seized a yacht sailed by a French couple, Chloé and Florent Lemaçon. The French stormed the boat and the pirates opened fire and Florent Lemaçon was killed during the operation.

Global concerns about piracy

Piracy off the coast of Somalia is a major global concern. Dozens of ships have been attacked and over two dozen of these ships have been taken hostage. Somali pirates were responsible for 44% of 289 piracy incidents on world's seas in first nine months of 2010.4 It seems that naval or police action cannot provide any long-term solution to piracy in Somalia because it is difficult to deal with a law and order problem in a country in an apparently lawless country unless the root causes of piracy are first addressed. It has been alleged that at the time the Chandlers were captured, a Royal Navy warship manned by at least 10 Royal Marines and equipped with a helicopter was just 50 yards away but took no action as the pirates seized the couple from their 38ft vessel.

The law relating to piracy

The legal framework on piracy includes the UN Convention on the Law of the Sea 1982 (UNCLOS) and the Suppression of Unlawful Acts against the Safety of Maritime Navigation Convention 1988 (SUA).

The insanity defence - unresolved and pressing issues

Sally Ramage

Introduction

The insanity defence is often misunderstood and is very controversial. Many people think that it is a legal defence that is often used, but the fact is that it is rarely used and not always successful.

The McNaughten case

In the year 1843, when Daniel McNaughten pulled a gun on the British Prime Minister Robert Peel at 10 Downing Street, London, McNaughten, by mistake, killed instead the Prime Minister's secretary, mistaking him for Robert Peel. McNaughten's lawyer invoked the defence of insanity at his trial and three expert witness physicians all declared McNaughten insane, although two of these physicians had not even examined McNaughten but had only observed him during the court trial. Lord Chief Justice Tindall stopped the trial and declared Mcnaughten insane. The controversy that followed caused there to be convened a panel of 15 judges to develop a specific definition for the insanity defence and thus the McNaughten Rule became the guide to insanity throughout the Commonwealth and the United States of America- insanity being a 'right-wrong test'.

The insanity defence

The insanity defence is rooted in a basic principle of justice, in that it is unfair to hold persons responsible for their actions when they do not know, or cannot control what they are doing and

hence society has searched for centuries for a way to measure insanity so that only the truly mentally ill are successful in using the insanity defence. It is to be noted that the word 'insanity' is not derived from medical use but rather it is a legal term. Mental health professionals never use the word 'insane' but rather, they use a specific diagnostic term, such as manic depression, or paranoid schizophrenia.

The history of the legal defence of insanity

In ancient Hebrew law and in English law until the 13th century, the insane were deemed to be those persons incapable of distinguishing between good and evil or between right and wrong, much like young children are incapable of doing do. This meant that the insane, like children, lacked 'intent' and so could not be considered criminally liable.

Insanity in the 14th century

In the early 14th century English law deemed a person to be insane if defence could show that the person's mental capacity was no better than that of a 'wild beast'. The meaning given to the word insanity has changed over the years by judges' dicta, and by statute and in the 16th century, Justice Anthony Fitzherbert deemed an 'idiot' as someone who 'cannot account or number twenty pence, nor can he tell who his father is, nor who is his mother, nor how old he is, etc'. The judge deemed that such a person could not be held accountable for a crime. for insanity, noting that juries were in need of guidelines.

Insanity in the 18th century

In 1800, a man named James Hadfield attempted to shoot King George III. Barrister Thomas Ersking who defended James Hadfield, suggested another way of measuring insanity and argued that the presence of delusions means that a person is insane. Hadfield's behaviour in attempting to kill King George III did not match past measures of insanity and Hadfield's lawyer argued that it was rare to find insane people who were so ill that they could not, for example, find their way home or recognize close relatives and therefore such a person could even plan a crime and might even know the difference between right and wrong, their delusions being the only matters that made them insane. The facts were that James Hadfield had been suffering delusions for some six years before he attempted to shoot King George III. He at first believed that he was King George III; then he believed that he was speaking to God and Jesus Christ and decided that humanity was doomed and that he wanted to die, at which point he tried to kill King George III so that he could be given the death sentence, it was claimed. James Hadfield was successful in his defence of insanity.

TOMORROW'S CRIMINALS

Edited by Rolf Loeber, Wim Slot, Peter van der Laan and Machteld Hoeve

Ashgate Publishing, 2009.

ISBN 978-0 – 7546 – 7151 – 0

Book Review by Sally Ramage

Tomorrow's Criminals

This intensive and timely multi-agency book is devoted to the study of children who show persistent disruptive behaviour and child delinquents. It is an encyclopaedia of empirical

knowledge about the development, causes and consequences of child delinquency and disruptive behaviours in children and it identifies successful preventive interventions and treatments. It identifies critical gaps in this knowledge and is a highly readable script, written for everyone concerned about children. Its sixteen chapters are arranged into six parts. These chapters address the topics of child development, child delinquency, parent and child personality characteristics, peer relationships, bullying in primary schools, risk factors, assessments, prevention, intervention, cost-effective prevention and treatment, Children's international rights, at-risk children in Europe and a conclusion which includes very important recommendations. This highly impressive work includes an extremely impressive bibliography, abundantly useful in itself. One of the key findings in criminology is that a relatively small number of chronic offenders in adolescence and adulthood account for more than half of all crimes including serious property crime and violence, having started their delinquency in childhood. Child delinquents have a high likelihood of becoming violent, serious and chronic offenders.

Minorities over-represented in Western jails

In the Western world, it is juveniles from minorities who are over-represented in the justice system of many countries and also in institutions for delinquents. This does not necessarily imply that cultural background or racial discrimination itself is the only cause. There are other reasons, for example, poor living conditions and poverty itself.

Child Delinquents in the UK

This book is extremely pertinent to the United Kingdom and must be made compulsory reading for all government and voluntary agencies dealing with children.

The detention of people under 18 years of age, especially in the UK Prison Service establishments, is a contemporary topic in the wake of many assaults by youths on youths at the present time. Anti-social behaviour among British youth today is a phenomenon never seen before. Instances of gangs of young people attacking and murdering other young people, rioting...

Health and Safety at Work- an essential guide for managers **Jeremy Stranks, 9th Edition (2010) KoganPage Limited,** **London; ISBN 978 0 7494 61195; E-ISBN 978 0 7494-6120 1**

Book Review by Sally Ramage

This ninth edition of 'Health and safety at work' is itself evidence of its popularity and fitness for purpose. Most importantly this edition includes the latest relevant legislation, including the Corporate Manslaughter and Homicide Act 2007. The 18 chapters in this book cover topics including the principal legal requirements; stress at work; occupational diseases; dangerous substances; engineering, electrical and structural safety; and an important chapter on construction and contractors. Encouragingly, the author gives the reader some of the relevant criminal law sources.

The latest UK Parliamentary debate on offshore oil drilling (see HC Deb, 11 November 2010, c408) debated on 11 November 2010 will be relevant as far as engineering safety is concerned. This important issue follows the publication of the analysis of the causes of the oil spill in the gulf of Mexico. ...

Quran Burning

Sally Ramage

The recent news from the United States of a pastor who had threatened to burn copies of the Muslim holy book, the Quran, made for uneasy reading. The fact is that Muslims believe that the

Quran is the literal word of God as recited to Muhammad. Criticism of the Quran generally consists of questioning traditional claims about the Qur'an's composition and content. It is a central tenet of Islam that the Quran is perfect and thus criticism of the Quran is considered criticism of Islam. The penalty for apostasy, or treason, as believed by Muslims. In Islamic law Islam is conceived as not just as a religious community.

The full articles can be bought from Westlaw, Thomson Reuters.

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