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Verdict in Rios Montt case in Guatemala-80 years' imprisonment for genocide

Sally Ramage

In May 2013, a Guatemalan court found former military ruler José Efraín Ríos Montt *guilty* on charges of genocide[1] and crimes against humanity. The 86-year-old former general was sentenced to 80 years in prison for planning the destruction of Mayan communities during the fiercest fighting in the country's long civil war. Ríos Montt was formally charged with the killing of 1,771 Mayans during one of the bloodiest periods in a civil war between a succession of governments and insurgents that lasted over 36 years, ending in 1996. A United Nations–backed Guatemalan truth commission estimated that more than 200,000 people were killed during the years of fighting, about 83 percent of them Mayans.
For the first time, a former head of state is found guilty of genocide by his country. This verdict sends a strong message to the world that no matter how important a person is, or how long it takes, perpetrators of genocide will be held accountable for their crimes and brought to justice.

The Guatemalan prosecutors tirelessly pursued this case helping the people of Guatemala to feel that some measure of justice has been obtained. The key question in the trial was whether Ríos Montt intentionally targeted Mayan communities during his 17-month rule in 1982–83, during a counter-insurgency campaign waged against guerrillas operating in areas of the Ixil region of Guatemala. Judge Yasmin Barrios, who announced the verdict, said that the three-judge panel believed that Ríos Montt planned and ordered the campaign; knew about the massacres; and did nothing to stop them.

While many cases of group-targeted violence have occurred throughout history and even since the Convention came into effect, the legal and international development of the term is concentrated into two distinct historical periods: the time from the coining of the term until its acceptance as international law (1944-1948) and the time of its activation with the establishment of international criminal tribunals to prosecute the crime of genocide (1991-1998). Preventing genocide[2], the other major obligation of the convention, remains a challenge that nations and individuals continue to face today.

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[1] The term 'genocide' did not exist before 1944. It is a very specific term, referring to violent crimes committed against groups with the intent to destroy the existence of the group. Human rights, as laid out in the US Bill of Rights or the 1948 United Nations Universal Declaration of Human Rights, concern the rights of individuals. In 1944, a Polish-Jewish lawyer named Raphael Lemkin (1900-1959) sought to describe Nazi policies of systematic murder, including the destruction of the European Jews. He formed the word 'genocide' by combining *geno*, from the Greek word for race or tribe, with *cide*, from the Latin word for killing. In proposing this new term, Lemkin had in mind 'a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves.' The 1945 International Military Tribunal, known as the 'Nuremburg Trials' used the word 'genocide' in a descriptive way. On December 9, 1948, in the shadow of the Holocaust and due to the tireless efforts of Lemkin himself, the United Nations approved the Convention on the Prevention and Punishment of the Crime of Genocide. This convention establishes 'genocide' as an international crime, which signatory nations 'undertake to prevent and punish'.

[2] The United Nations' Convention on the Prevention and Punishment of the Crime of Genocide defines 'genocide' as follows:
'Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

The lives of Jewish children during the Nazi era

Sally Ramage

When World War II began in September 1939, there were approximately 1.6 million Jewish children living in the territories that the German armies or their allies would occupy. When the war in Europe ended in May 1945, more than 1 million and perhaps as many as 1.5 million Jewish children were dead, targeted victims in the Nazis' calculated program of genocide. [3]The Nazis advocated killing children of 'unwanted' or 'dangerous' groups in accordance with their ideological views, either as part of the 'racial struggle' or as a measure of preventative security.[4] The Germans and their collaborators killed children both for these ideological reasons and in retaliation for real or alleged partisan attacks. The Germans and their collaborators killed as many as 1.5 million children, including over a million Jewish children; tens of thousands of Romani children; German children with physical and mental disabilities living in institutions; Polish children; and children residing in the occupied Soviet Union. The chances for survival for Jewish and some non-Jewish adolescents (13-18 years old) were greater, as they were often deployed as forced labour. All Jewish and other undesirable children (according to Nazi propaganda) may be classified in the following groups of children:

(i) children killed when they arrived in killing centres;
(ii) children killed immediately after birth or in institutions;
(iii) children born in ghettos and camps who survived because prisoners hid them;
(iv) children, usually over age 12, who were used as labourers and as subjects of medical experiments; and
(v) children killed during reprisal operations or so-called anti-partisan operations.

Starvation, exposure, no clothes or shelter

In the ghettos, Jewish children died from starvation and exposure as well as lack of adequate clothing and shelter. The German authorities were indifferent to this mass death because they considered most of the younger ghetto children to be unproductive and hence 'useless eaters.' Because children were generally too young to be deployed as forced labour, German authorities generally selected them, along with the elderly, the ill, and the disabled, for the first deportations to killing centers, or as the first victims led to mass graves where they were shot dead.

The killing centres: Auschwitz, Chelmno and Treblinka

Upon arrival at Auschwitz-Birkenau and other killing centres, the camp authorities sent the majority of children directly to the gas chambers. The Nazi SS and police forces in German-occupied Poland and the occupied Soviet Union shot dead thousands of children at the edge

(a) Killing members of the group;
(b) Causing serious bodily or mental harm to members of the group;
(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
(d) Imposing measures intended to prevent births within the group;
(e) Forcibly transferring children of the group to another group'.

[3] The Nazi persecution of Jews began in Germany in 1933. By 1939, the country's Jews had been systematically deprived of their civil rights and property and ostracized from the national community.

[4] German conquests in Europe after 1939 led to the implementation of anti-Semitic policies in the occupied territories. Though the pace and severity of persecution differed in each country, Jews were marked, vilified, and segregated from their neighbors. In Eastern Europe, the Nazis generally isolated Jews in ghettos, which were established in the most desolate sections of a city or town. In Western Europe, internment camps served as detention centers for Jews. Such policies of isolation aided the Nazis when they began mass shootings and deportations to the killing centres.

of mass graves. Sometimes the selection of children to fill the first transports to the killing centres or to provide the first victims of shooting operations resulted from the agonizing and controversial decisions of Jewish council (Judenrat) chairmen. The decision by the Judenrat in Lodz in September 1942 to deport children to the *Chelmno* killing centre was an example of the tragic choices made by adult Jews faced with German demands, although some, such as Janusz Korczak, director of an orphanage in the Warsaw ghetto, refused to abandon the children under his care when they were selected for deportation. He accompanied them on the transport to the Treblinka killing centre and into the gas chambers, sharing their fate. Non-Jewish children from certain targeted groups were not spared. Examples include Romani children killed in Auschwitz concentration camp; 5,000 to 7,000 children killed as victims of the euthanasia program; children murdered in reprisals, including most of the children of Lidice; and children in villages in the occupied Soviet Union killed alongside their parents.

Nazi policy of systematic mass murder of all Jews

Hitler made the decision in 1941 to carry out the systematic mass murder of Jews. Mobile killing squads followed the German army into the Soviet Union in June 1941, and by the end of the year, murdered almost 1 million Jewish men, women, and children. In December 1941, the *Chelmno* killing center began operation and in 1942, the Nazis established five more death camps to carry out the gassing of Europe's Jews. All Jews were targeted for death, and the mortality rate for children was especially high. Only 6 to 11% of Europe's prewar Jewish population of children survived as compared with 33% of the adults. In the camps, children, the elderly, and pregnant women routinely were sent to the gas chambers immediately after arrival.

Only 451 Jewish children among 9,000 Auschwitz survivors

Following the defeat of Nazi Germany, it was determined, that few Jewish children had survived. In killing centres and concentration camps across Europe, systematic murder, abuse, disease, and medical experiments took many lives. Of the estimated 216,000 Jewish children deported to Auschwitz, 6,700 teenagers were selected for forced labor; and nearly all the others were sent directly to the gas chambers. The camp was liberated on 27 January 1945, when Soviet troops found just 451 Jewish children among the 9,000 surviving prisoners. In the Low Countries, perhaps some 9,000 Jewish children had survived. Of the almost 1 million Jewish children in 1939 Poland, only about 5,000 survived. Most of the 5,000 who survived in Poland did so in hiding. The 5,000 Jewish children who survived the Holocaust were protected by people and institutions of other faiths. Dozens of Catholic convents in German-occupied Poland independently took in Jewish children. Belgian Catholics hid hundreds of children in their homes, schools, and orphanages and French Protestant townspeople in and around Le Chambon-sur-Lignon sheltered many and in Albania and Yugoslavia, some Muslim families concealed Jewish children. It is noted that the willingness or ability of the non-Jewish populations to rescue Jewish lives never matched the Nazis' vehement desire to destroy them. Even in countries where hatred for the German occupiers ran deep, anti-Nazism did not necessarily generate aid for Jews.

Tax evasion and the shadow economy
Edited by Michael Pickhardt and Aloys Prinz
EDWARD ELGAR PUBLISHING LIMITED (2012)
ISBN 978-0-85793-703-2
Book Review by Sally Ramage, Editor, *The Criminal Lawyer*

Contributors

It has been a long time since we've seen the subject of fraud raises its head after the enforcement of the United Kingdom Fraud Act 2006 and this new book, edited by Michael Pickhardt[5] and Aloys Prinz [6]includes contributions by James Alm; M. Rosaria Marino; Roberta Zizza; Gloria Alarcon Garcia; Arielle Beyaert; Laura de Pablos; Philippe Adair; Bogdan Mroz; Moroslava Kostova Karaboytcheva; Luis Rubio Andrada; and Jurgen G Backhaus.

White collar crime

This is a short book, a monologue on tax evasion and the shadow economy.[7] There are 8 chapters divided into three main sections- an overview, tax evasion and the shadow economy. By its nature such monologues do not carry the usual table of cases and table of statutes but it does contain a useful index. There is a dearth of information about the subject mainly because it is usually secret. It is a white-collar crime in the main, as espoused by Sutherland and contested for years in areas of high-level finance, where insider dealing, for example, was treated in the United Kingdom for years as a civil offence rather than a criminal offence.

In respect of Income Tax, HMRC have the option of the statutory offence under s144 of the Finance Act 2000 for those 'knowingly concerned' in the 'fraudulent evasion' of income tax. However, in the case of *R v Oliver*[8] the case was concerned with a large scale VAT carousel fraud. The case was stayed as an abuse of process because of non-disclosure by HMRC. This included the fact that the schedules of unused evidence did not list substantial quantities of material that had been gathered from third parties.

It has been argued that such corporate and business crimes should be seen as an inevitable corollary of capitalism. *Box,* 1983[9] argued that corporations are themselves criminogenic because if legal means are blocked they will resort to illegal means so as to maintain and increase profitability. It is true that it can be assumed that all businesses act as amoral

[5] Some other writings by Pickhardt are:
Pickhardt, Michael (2005), 'On Teaching Public Goods Theory with a Classroom Game', *Journal of Economic Education*, 35(2).
Colombier, C. and Pickhardt, M. (2005), 'A Note on Public Input Specifications', *International Advances in Economic Research*, 11 (1).
Pickhardt, M. and Sardà Pons, J. (Eds.) (2005), *Perspectives on Competition in Transportation*. Berlin: VWF.
Pickhardt, M. (2005), 'Some Remarks on Self-interest, the Historical Schools and the Evolution of the Theory of Public Goods', *Journal of Economic Studies,* 31.
Pickhardt, Michael (2005) 'Energy Policy', in: M. Peter van der Hoek (ed.), *Handbook of Public Administration and Policy in the European Union,* New York: CRC Press (Taylor & Francis).
[6] Other writings of Professor include: Aloys Prinz and Hanno Beck, 'Fighting debt explosion in the European sovereign debt crisis', *Intereconomics*, May 2012, Vol. 47, Issue 3, pp 185-189.
[7] Tax evasion is the term for efforts by individuals, corporations, trusts and other entities to evade taxes by illegal means. Tax evasion often entails taxpayers deliberately misrepresenting the true state of their affairs to the tax authorities to reduce their tax liability and includes dishonest tax reporting, such as declaring less income, profits or gains than the amounts actually earned, or overstating deductions. Tax evasion is an activity commonly associated with the informal or shadow economy.
[8] [2007] EWCA, Crim 2220.
[9] Box, S. (1983) Pow*er, crime and mystification*, London: Tavistock.

calculators and would choose to offend but for the availability of serious sanctions (*Pearce* and *Tombs,* 1990, 1991, 1998, 2012, 2013)[10] and some commentators said that the difficulty of controlling white collar crime and the need to rely on compliance techniques should be attributed to a lack of political will to provide proper prosecution (*Levi*, 2007)[11]

Tax evasion

Tax *evasion* is a term reserved for non-payment of tax by means of criminal fraud or other violations of law whilst tax avoidance involves minimising or eliminating a tax bill legally. Whilst the former activity can be classed as a white collar crime, the latter is a legitimate activity, used by individuals, small firms, and especially big businesses to gain the benefits of tax evasion without the potential penalties, by 'bed and breakfasting shares', artificial creation of losses to set against capital gains, offshore invoicing, and other technical ways of laundering the taxable amount into a non-taxable form. The key act that distinguishes illegal tax evasion from legal tax avoidance is disclosure.[12] The Fraud Act 2006 abolished all the deception offences in the Theft Acts of 1968 and 1978 and created, by s1(1), one new offence of 'fraud' which could be committed in three different ways. However, the Act did not repeal any of the offences which can be described as offences against the revenue, such as s72 of the Value Added Tax Act 1974 on VAT frauds.

Tax Fraud

The common law offence of cheating the public revenue is perhaps the easiest route for the Crown to take as all the prosecution have to prove is that the Defendant made a false statement with intent to defraud the revenue; *R v Hudson* [1956] 2 QB 252. In fact in *R v Mavji,* 84 Cr. App. R 34 the Court of Appeal held that an actual act of deception is not necessary - the offender in that case did not complete a VAT return or pay his VAT bill - that was enough as he was found to have (not) done so with the necessary dishonest intent.
In respect of Income Tax, HMRC have the option of the statutory offence under s144 of the Finance Act 2000 for those 'knowingly concerned' in the 'fraudulent evasion' of income tax. In the end whether the offence you are charged with is s144 of the Finance Act 2000 or the common law offence of cheating the revenue, the ultimate question will be whether there was an intent to defraud - i.e. was the Defendant acting honestly or not?

Typically, in any fraud case, there will be the highlights; that is key 'facts' that the Crown concentrates on, i.e. particular invoices, particular dates and your answers to the interrogators in interview. Obviously the defence team has to identify the prosecution 'highlights' and know them well at an early stage but often though the answer will be in drawing the jury's attention to other aspects of the case and laying the groundwork for that well - aspects like the Defendant's character or business practices or the more technical aspects such as patterns in the invoices that tend to show a leaning towards late payment rather than non-payment, or

[10] F. Pearce and S. Tombs (1991) 'Ideology, hegemony and empiricism: compliance theories of regulation', *British Journal of Criminology, 30*: 423-443. Also, see F. Pearce and S. Tombs (1990) 'Policing corporate "skid rows", *British Journal of Criminology*, 31:415-426. More recently, see Pearce, F and Tombs,S. (1998)*Toxic Capitalism: corporate crime and the chemical industry,* Aldershot: Ashgate. See also Pearce, F. and Tombs, S. (2012) *Bhopal. Flowers at the altar of profit and power,* North Somercotes: CrimeTalk Books.
See Tombs, Steve and Whyte, David (2013). Reappraising regulation: the politics of "regulatory retreat" in the United Kingdom. In: Will, Susan; Handelman, Stephen and Brotherton, David C. eds. *How They Got Away with It: White Collar Criminals and the Financial Meltdown.* New York and Chichester: Columbia University Press, pp. 205–222
[11] Levi, M. (2007) *Phantom capitalists*, London: Gower.
[12] Editor, *Simon's Taxes,* (2010) London: LexisNexis. See also, McKie, S and McKie, (2013), *Tolley's estate planning,* London: LexisNexis.

material which shows that you have declared monies that might have been missed or not claimed against valid receipts etc.

Trial by jury

In *R v IK*[13] the question for the Court was whether the proceeds of cheating the revenue could be 'criminal property'. In a nutshell a legitimate trader had earned legitimate money undertaking a legitimate business (a shop). However, the allegation was that not all the income was declared - thus cheating the revenue. The Crown prosecuted money laundering offence but the trial Judge ruled that there was no 'criminal property' - the money did not come from an actual crime. Following a prosecution appeal the Court of Appeal found that the undeclared income could in part 'represent' the proceeds of crime, as that undeclared amount would be representative of the 'benefit' of tax evasion. Some argue that the State will always maintain as many possible offences as possible when it comes to offences against the revenue, and therefore, plans to scrap jury trials in certain fraud cases some argue, must be fought tooth and nail and since the bottom line is always the question of the honesty and integrity of the defendant a properly directed jury is best placed to decide such a case.

First Chapter

In the first chapter of this new book, Pickhardt and Prinz state that 'the option to earn a higher income seems to be the fundamental motivation for any individual who gets involved in tax evasion or shadow economy activities. Those astounding tax evasion cases that reach the public via newspapers include the Madoff multi-billion fraud in the United States and chapter 8 gives a detailed analysis of this case and notes that this is an area worth researching regarding motivational forces. The black economy or the shadow economy usually consists of people who work for cash and who will offer no invoices. On a grander scale, the shadow economy includes those who operate 'carousel fraud', an organised crime of defrauding the government of Value Added Tax ('VAT') and chapter 5 address the shadow economy.

Chapters 6 to 8

Chapter 6 addresses petty crime of the shadow economy and studies Poland as an example. Chapter 7 asks if a country's credit rating can be affected by the size of its shadow economy. Chapter 8 also examines the Madoff case, looking at the abuse of trust, yet peculiarly representing a case of tax avoidance because the company paid all its due taxes. This was the opposite case to a carousel fraud and an example of a carousel fraud is as follows: On 28 October 2008, a British gang who had committed a carousel fraud, had been said to have cheated the United Kingdom treasury out of £10 million by falsely claiming Value Added Taxation ('VAT') and laundering the proceeds of the fraud. At their trial at Canterbury Crown Court in Kent, they were all sentenced to imprisonment. Her Majesty's Revenue & Customs ('HMRC)') defines carousel crime as a fraud in which criminals falsely claim VAT on high-value export goods - goods which may be fictitious and therefore never exported - and pocket the VAT repaid.

The case involved *Virgini Ltd*, a company registered in Scotland, whose director was Mr Durgesh Mehta. A company registered as *St Peter* in Buckinghamshire received £7 million in

[13] [2007] EWCA Crim 491, 8 March 2007.

VAT repayments after submitting false tax returns between July and October 2003. These VAT repayments were based on the purchase of mobile phones that were then allegedly exported by Virgini Ltd to the Ukraine. The judge handed Mr Mehta a ten year sentence for the fraud he had committed, the maximum sentence for a fraud offence since the passing of the 2006 Fraud Act. Mr Gerald Readon of Molash, near Canterbury and Mr Matthew Sharman of Langdon Hills, Essex, were both given eight-year prison sentences for laundering funds through a business bank account of an offshore company. During the HMRC investigation, after which they seized one million pounds from a bank account, they discovered that various sums of money had been transferred from *Virgini Ltd* to the accounts of two companies, namely, *Fone Connection Ltd* and *Hatherley Enterprises*, the director of both companies being Mr Peter Ratcliff, of Ashtead, Surrey, who was jailed for eight years for being found guilty of conspiracy to transfer criminal property under the Proceeds of Crime Act 2002. All four men had also, in separate actions, been disqualified from being company directors for 10 years.

How did this happen?

It was mainly due to the VAT digitised system put in place in the European Union ('EU'). Digitising the VAT in the EU was part of the Lisbon Strategy (see European Commission, (2000) '*eEurope: An Information Society for all'*, COM 150. The goal was that by the year 2010, the European Union would become a more competitive, and dynamic, knowledge-based economy, with improved employment and social cohesion. (See European Commission, (2002), 'eEurope 2005: an Information Society for all. An action plan to be presented in view of the Sevilla European Council', COM (2002) 263).

Numerous changes were made in the Sixth Directive in line with the Lisbon Strategy. The 'Invoicing Directive,' Council Directive 2001/115/EC of December 20, 2001 (2001/115/EC, 2002 O.J. (L 15) 24) and the 'Digital Sales Directive' Council Directive 2002/38/EC of May 7, 2002 (2002/38/EC, 2002 O.J. (L 128) 41 were crucial to moving the European VAT in the digital direction. Together they provide for digital notices, digital returns, and digital periodic and recapitulative statements, as well as digital third-party prepared invoices. In the United Kingdom, carousel fraud has cost the Exchequer between £1.12 billion and £1.9 billion in the 2004-2005 financial years, and was considered to be the cause of the first annual fall in VAT revenues since the tax was introduced in the United Kingdom.

Carousel ('missing trader intra-community, or 'MTIC') fraud is possible when a seller (A) in Member State X makes an exempt intra-community supply of goods to a missing trader (B) in Member State Y. B acquires the goods without paying VAT and later makes a domestic supply to a third company (C). B collects VAT on its sale to C, but does not pay over the collected VAT to the government. B disappears with the VAT. When C claims an input credit on the VAT it paid to B, the missing trader, the government suffers the loss. In a fully operational carousel, C will resell the goods back across the border to the initial seller, A. That sale is also an exempt intra-community supply. The same goods can then be sold once again on the carousel to B.

The 1993 abolition of border controls between member states removed the administrative mechanism that verified entitlement to zero rating upon export, as well as the obligation to pay VAT on import. VAT payment is now deferred when goods cross EU borders. That deferral breaks the VAT chain at a particularly vulnerable spot: the interface of domestic and

foreign tax administrations. Considered theoretically, deferral is a major exception to the fractional payment principle on which the VAT is based. This change opened the door to carousel fraud. However there was one case which the HMRC did *not* win. The case of *R v G***,** Southwark Crown Court [2005] concerned an alleged conspiracy to defraud a major insurance company, The Prudential, of £42 million, by employees of that company, who were responsible for reviewing files to establish whether pensions had been mis-sold. It was alleged that the defendants set up 'outsource companies' to which contracts were awarded which guaranteed extortionate rates of remuneration, from which the defendants are said to have made significant financial gains. The case collapsed and received national press coverage.

Money Laundering

There are three main offences created by POCA which carry penalties of up to 14 years imprisonment. They are s327 - concealing, disguising, converting or transferring criminal property, or removing it from the jurisdiction. Section 328; is entering into, or becoming concerned in an arrangement to facilitate the acquisition, retention, use or control by, or on behalf of another person, of criminal property knowing or suspecting that the property is criminal property. Section 329 is the offence of acquiring, using or having possession of criminal property.

Tax Evasion as Money Laundering

In *R v IK*[14] the question for the Court was whether the proceeds of cheating the revenue could be 'criminal property'. In a nutshell a legitimate trader had earned legitimate money undertaking a legitimate business (a shop). However, the allegation was that not all the income was declared - thus cheating the revenue. The Crown prosecuted money laundering offence but the trial Judge ruled that there was no 'criminal property' - the money did not come from an actual crime. Following a prosecution appeal the Court of Appeal found that the undeclared income could in part 'represent' the proceeds of crime, as that undeclared amount would be representative of the 'benefit' of tax evasion. Some argue that the State will always maintain as many possible offences as possible when it comes to offences against the revenue, and plans to scrap jury trials in certain fraud cases some argue, must be fought tooth and nail and since the bottom line is always the question of the honesty and integrity of the defendant a properly directed jury is best placed to decide such a case.

Conclusion

This very interesting book includes some very attractive points, none more so than the analysis of the United States' *Madoff* case.

[14] [2007] EWCA Crim 491, 8/3/07.

Monitoring Nick Griffin, leader of the British National Party

Sally Ramage

It is no surprise that some publications are noting where Mr Nick Griffin, the chairman of the British National Party ('BNP') and a Member of the European Parliament,[15] representing North West England, travels to, and what he may be doing in those places. On Saturday 15 June 2013, the Times newspaper on page 21, noted that '*Nick Griffin has been to Syria to support Mr Bashar Assad, having previously supported Mr Muammar Gaddafi…*

As far as the criminal law is concerned, Mr Nick Griffin has a criminal past because in 1998, Mr Griffin was convicted of distributing material likely to incite racial hatred, for which he received a suspended prison sentence. In 2006, he was acquitted of separate charges of inciting racial hatred.

Racially and religiously aggravated offences

Today, English law states that racially and religiously aggravated offences are a product of the Crime and Disorder Act 1998 and this 1998 act does not create new offences but sets out circumstances in which existing offences become racially or religiously aggravated. The 'aggravated' form of the offence carries a higher maximum penalty than the ordinary form of the offence.

The offences that can become racially or religiously aggravated can be grouped into 4 categories of assaults; criminal damage; public order offences and harassment, as follows:

Assaults:

Wounding or grievous bodily harm, as per Offences Against the Person Act 1861, s20; causing actual bodily harm as per Offences Against the Person Act 1861, s 47; or common assault as per the Criminal Justice Act 1988, s 39;

Criminal Damage offences:

Simple' criminal damage is an offence as per the Criminal Damage Act 1971, s 1(1).

Public order offences:

Causing fear or provocation of violence as per the Public Order Act, s 4; intentional harassment, alarm or distress as per the Public Order Act 1986, s4A; or causing harassment, alarm or distress as per the Public Order Act1986, s5.

Harassment offences:

Harassment is a criminal offence as per the Protection from Harassment Act 1997, s2 and putting people in fear of violence is a criminal offence as per the Protection from Harassment Act 1997, s4.

[15] Having been elected in the 2009 European Elections.

It is to be noted that racially or religiously aggravated offences must fulfil the conditions as per the Crime and Disorder Act 1998, s28. Section 28 (1) (a) of this act requires that the defendant must demonstrate hostility at the time of the committing of the offence or immediately before or after doing so. The word 'hostility' is not defined in the act and so takes on the common meaning of the word.

White supremacist political party

The BNP is in effect a white supremacist political party which is very worrying for many people and with new technology and the Internet, the politics of white supremacists enjoy better routes by which to ply their wares. In Jesse Daniels' book titled *Cyber Racism: White Supremacy Online and the New Attack on Civil Rights,* the author writes about the way in which racism is translated from the print-only era to the cyber era and explains how white supremacist organisations have moved their printed publications onto the Internet, taking the reader through a disconcerting informative tour of white supremacy online.

Nick Griffin is the editor of two right-wing publications, *The Spearhead* and *The Rune* both of which have obviously benefitted from using the Internet to get their message across and thus increase the membership and donation of money to the political party named the BNP.[16]

There is fear in some communities

It is of concern that sections of the United Kingdom in which mostly elderly person of ethnic minority race reside and pockets of places where many people are vulnerable, cause much concern when the BNP demonstrate or peddle their wares there and in the theory of crime, it is known that in response to fear, people avoid one another[17] and this leads to a breakdown in community. This coupled with entrenched police institutional racism, acknowledged as existing in the United Kingdom, makes for a very worrying time.

Why does the BNP uphold the notion of English superiority & incite fear in minorities?

After European membership, sixty million white Europeans have free range of Britain, should they choose. Yet, Britain has always drafted and enforced extremely severe and hostile laws against immigration and all new immigration laws since 1888 have borne the same hostility.

Human Rights Act 1998

Now, over fifty years later, there has been a change to citizenship legislation which began as long ago as 1377 with the dual-chamber parliament established under Edward the third. This change is the Human Rights Act 1998 and it is the second biggest change to the criminal justice system since the Magna Carta and gives the right to life and a fair trial, freedom from torture, freedom of expression and freedom to marry and have a family. This is a change to citizenship legislation which had begun to take shape since the denotation of 'British Citizenship' under the British Nationality Act 1981. Yet it is to be noted that among the European Union ('EU') member states, Britain still does not have an enforceable Bill of Rights. In 1985, the governments of five European Economic Community ('EEC') member

[16] Another right-wing political party in Europe is the *French Front National* party.
[17] Cullen, F.T. and Agnew, R. (2003) *Criminological theory: past to present*, California: Roxbury Publishing Company, at p. 467.

states signed an agreement towards the 'gradual abolition of checks at their common borders'. They signed this agreement in Schengen', a small town in Luxembourg. Note that England and Wales did not sign this agreement. In the year 1995 a number of governments went ahead and put the '*Schengen acquis'* into force and in 1997 the '*Schengen acquis'* was annexed to the Amsterdam Treaty by Protocol. In fact, the whole of Europe has restrictive immigration policy. Restrictive immigration and asylum policies have been continually institutionalised from 1985 to 2000 by European agreements such as the '*Schengen Accords'*, the '*Dublin Convention'*, the 'T*hird Pillar of the Maastricht Treaty'* and the '*Amsterdam Treaty'*. These fortress treaties all breach the 1951 Geneva Convention Relating to Status of Refugees. The 1951 Geneva Convention relates to the status of refugees and secures for refugees 'the widest possible exercise of …..fundamental rights and freedoms'. Article 1 of the Geneva Convention defines a refugee as 'anybody who has a well-founded fear of being persecuted for reason of race, religion, nationality, membership of a particular social group or political opinion'. The Geneva Convention is supposed to guarantee the right to asylum without conditions. Asylum to the UK today is very difficult to obtain. Asylum seekers not welcome are from Zimbabwe, Iran and Afghan. In late 2008, the UK government proudly announced that it deported some 700 illegal immigrants every single day. In 1998, some 7,000 asylum seekers were granted settlement in the UK, a country with a population of approximately 63 million people, ie. 0.01113 % of the population. It is difficult to see any link between Britain's perception that it is asylum 'friendly' and the statistical facts.

Britain subscribed to the European Declaration of Human Rights, adopted and proclaimed by the United Nations General Assembly's resolution in December 1948. Britain ratified the 1951 Geneva Convention Relating to the Status of Refugees. When, in the year 1999, the then UK Home Secretary claimed that the agreement of the 1951 Geneva Convention Relating to the Status of Refugees was 'outdated' he was paving the way for the Immigration and Asylum Act 1999 which imposes tight regulations on asylum. The British government claims that there is potential redress to asylum seekers in the Human Rights Act 1998.
If a public authority has acted in a way which is made unlawful by the Act, a person may bring proceedings against the authority under the Human Rights Act in the appropriate Court or Tribunal if he or she is a victim of the unlawful act. Such remedies, however, need finances, which, often, genuine asylum seekers have none of. Britain was one of the first western countries to legislate against immigration with the Naturalization Act 1870.
It is right that British newspapers today keep an eye on the goings on of the BNP. It is hoped that this will further expose the duplicity in the law and the policing of the laws of England, embedded as the institution is with racism.

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