

Appendix 1

STOCKHOLM RACE HATE CRIMES GROTIUS SEMINAR 11TH – 15TH **FEBRUARY 2001**

Conference Report by Peter Herbert

INTRODUCTION

The seminar was sponsored by the Grotius fund to examine the European wide response to the prosecution of race hate crimes. The seminar participants represented a cross section of 21 European countries from Norway to the Czech Republic with delegates from the public prosecutors office, national police forces and Judiciary. Most delegates were in fact prosecutors. The UK delegation comprised the Director of Public Prosecution, David Calvert-Smith Q.C. and Assistant Commissioner John Grieve and Peter Herbert, Deputy Chair of the MPA.

The focus of the seminar was to compare and contrast . the European response to the international face of race hate crime particularly as depicted on the internet with offences committed across national borders. The seminar was opened by the Swedish Minister of Justice, Mr. Thomas Bordsrom and then followed by an address by the Prosecutor General of Sweden Mr. Klas Bergenstrand. Both speakers spoke clearly of their abhorrence of fascism and racism. A common theme was the extent to which far right groups had usurped the traditional nationalism and liberalism to assemble under the Swedish constitution in order to promote their views particularly amongst the young. The need for common was underlined particularly as much of then racist hate crime information emanated from the Swedish based Internet.

THEMES OUTLINED

Then two speakers outlined matters of serious national and international concern. The fight against Nazism was regarded by many of the younger generation as simply a part of history and of no current relevance. White power music, much of it originating in the UK and the U.S.A. was listened to by 12.4% of all young people in Sweden, which had far reaching consequences for the mainstreaming and widespread dissemination of racist and anti-Semitic ideology.

There were a catalogue of incidents recorded in Sweden in recent years including the burning of a masque in 1996, with the main far right group in Sweden "VAM" having taken over a small town called Aarlstrom 1994 for the best part of a day and terrorizing the inhabitants In a recent survey of attitudes to the UE in Sweden 96% believed that the EU should take responsibility for anti-racism whilst 85 believed that the EU had a duty to take effective action against far right groups.

The electoral successes of some far right parties were felt in the main by small industrial towns with hardly any minority population with in one municipality the far right party winning 20% of the vote.

As a consequence of the increase in racial violence generally the Swedish Government had decided on an action plan to tighten the race hate laws; effect legal international assistance laws and to monitor attitudes to racism and xenophobia generally.

This seminar had originated out of the second Stockholm conference. On combating intolerance it was said that there was a need to deepen the level of international co-operation through the Judicial Legal Network.

Racist Groups and symbols, trends and motives to racist crimes within the EU.

There were two speakers who addressed the topic from different perspectives. The first was an expert called Mr. Mattius Gordell. He detailed the origins of the far right propoganda of racist ideology, which had links to the Norse mythology, linking that to the globalization of racist theories to be found in the USA. These had some common themes in that they often featured the common enemy as being ZOG (Zionist Occupation Governments) and the (CRAP) Christian Right Wing American Patriots.

Far right groups tended to by nature paranoid believe that there were spies everywhere, which has led to the recommendation that supporters and members organize in small cell type formations rather than clear party structures. For example the St Mary's Idaho Propaganda Center has supporters in over 44 countries with a proliferation of groups centered around the David Lane "Silent Brotherhood".

The conviction day of Lane himself (12/8/1984) to several terms of life imprisonment has become known as the "Day of the Martyr". The symbolism had been retained with the Nazi era centering on the use of the numbers 14/88 being the sacred 14 words and the 88 precepts by which ZOG planned to replace Aryan men.

The new groups had been motivated by a move away from a centralized structure into leaderless cells with members urged to blend into the population and not to be identified by skinhead haircuts, insignia and to direct themselves at lone wolf activity similar to the Oklahoma bombing. In the recent FBI study of the far right such a strategy was likely to be difficult to detect, difficult to infiltrate. Such groups idealized figures such as the Tokyo nerve gas assassin, whilst celebrating videos such as "Brave heart" and "Conan the Barbarian" as their role models. Ridiculous though some of the evidence may seem the danger from such profiled individuals and the danger they posed should not be underestimated as can be seen from the Brixton bomber case, which proved so difficult to detect.

The old perception that members were likely to be from the "poor white trash" of society was now misplaced particularly as the far right had sought to go into mainstream politics through the National Front in France, and the far right parties in

Belgium which in Antwerp gained 23% of the local electoral vote. The new profile of the racist activist was likely to be from a blue-collar background, of above average intelligence with a background in the military, being employed in the state or public sector.

Ms Helene Loof

This Swedish historian explored the themes of “Holocaust denial” which had initially been dismissed as non-threatening extremist propaganda of a fairly harmless nature. Increasingly this had been exposed with a new generation of young white men listening to groups such as “Screwdriver” and attending “Blood and Honour” concerts. The far right movement has changed immeasurably since the 1970’s and 1980’s with Governments generally failing to keep pace with the new right wing activists.

Strategists have found a good recruiting ground for the disaffected youth of the former Eastern European block but this and this has helped in a resurgence for the far right previously sustained by the exportation of English racism through football supporters and music. Views, information and ideology regularly exchange between far right groups on the Internet available both in Sweden and particular in the USA where the First Amendment acts as a protection for Internet providers and servers.

She stated that groups such as the “White Aryan Resistance” had members and supporters in several Nordic countries such as Germany and Sweden with their organization typified by attacks on asylum seeker hostels and even the killing of two Police Officers in Sweden. On the west coast of Sweden the attacks were not just targeted on minority groups but also included attacks on Trade Unionists, women’s groups and homosexual men. The largest prosecution of this group took place in 1986 and tried approximately 50 members of the so called Nordic Rights Party” who since they disclaimed all responsibility for the actions of their members had lost credibility in the far right movement since that time.

THE RESPONSE OF THE CRIMINAL LAW IN SOME EUROPEAN JURISDICTIONS.

The Czech Republic

The successful prosecution and conviction of two attackers in a racial murder in Prague in 1997, both active supporters in a skinhead movement with clearly expressed views against “foreigners”. The victims were one Sudanese student threatened with threats to kill, who was later fatally stabbed to death and another stabbed in the hand. The two assailants were sentenced to 13 ½ years imprisonment (the adult); whilst the juvenile was sentenced to 7 ½ years imprisonment.

The Republic has a specific offence of racial violence:

The Criminal Code Section 196:

(2) A Person who uses violence against a group of citizens or an individual, or threatens them with death, injury to health or large scale material damage, because of their political conviction, nationality, race, religion or lack of religious faith, shall be sentenced to imprisonment for a term of imprisonment from six months to three years.

Similar provisions related to murder (s 219) and injury to health (s 222).

Defamation of a Nation or Race , Section 198

One example of a charge brought under the incitement to racial hatred provisions was obtained against a leader of the far right group called the National Alliance. Her had stated that inter alia,

“I refuse to believe the cock and bull stories about the holocaust. There were no six million victims, there were no gas Chambers, there was no Jewish extermination, there was no Gypsy extermination, and if it had been true by chance, if a holocaust had existed, I can only say one thing- Is a Czech man, a real hero, and moreover a legionnaire, of a lower value than an Isaac or a Lakatosh.”

He was charged and convicted under section 198, and in June 2000 sentenced by the District Court of Rakovnik (Bohemia) to a conditional 1-year sentence and four years probation.

Section 198 states that,

“ Whoever publicly incites hatred of another nation or race or calls for restriction of the rights and freedoms of other nationals or members of a particular race shall be sentenced to a term of imprisonment of up to two years”

Norway

The paper from the Norwegian delegation stated prophetically that,

“Norway has so far been spared the most serious criminal acts motivated by racist or xenophobic attitudes. Although there are examples of threats, offences against another person’s life, body and health and vandalism motivated by these kinds of attitudes, these do not constitute a predominant feature of crime development in Norway”

This statement was superceded by an update provided as the seminar met of a 14 year old boy of African origin whom was stabbed to death by a gang of three white teenagers in Oslo. One of the assailants was female. The killing occurred in January this year. In Oslo some 40,000 people demonstrated against racism in one of the largest post war demonstrations the city had seen.

On a personal note I recall visiting Norway as a 9 year old and being told by a coach driver outside Oslo how the Norwegians hated fascism as he described how three drivers drove busloads of German troops off some cliffs during the occupation.

Legislation

In 1989 the Norwegian Penal Code was amended to ensure that the Courts should take into account racially motivation in setting higher sentences of imprisonment for crimes of coercion,(s222), threats(s227); offences against a person's life, body and health (s 228-232) and vandalism (s 292). This is comparable to the steps not taken by the UK however until the Crime And Disorder Act in 1998. A separate section has been introduced to protect witnesses and Court officials from intimidation from far right groups and organized crime. S 132.

The Sognal Case

In May 1999 a 17-year-old Asian boy was chased by racists in Sognal, a small village in the western part of Norway to his death in the icy river that runs through the center of the village. There had been a history of the victim being the subject of racial abuse and harassment by the two assailants the year previously in school. The two boys have been charged with threats under particularly aggravating circumstances and not manslaughter. This charge if establishing racial motivation carries a maximum penalty of 6 years imprisonment.

The Haugesund Case

In April 1995 a group of racists left a party to confront anyone with opposing political views or any foreigner. Armed with a variety of weapons including sticks they attacked five people including two foreign nationals. The unprovoked attacks left the victims hospitalized however four of the assailants were caught and three sentenced to racially motivated offences of between 120 days and one year in prison under section 223,229 and 232 of the Criminal Code. The most serious offender had a previous conviction for assaulting a Somali before.

France

Arguably the most interesting case from a legal standpoint occurred in France in May 2000. The International League against Racism and Anti-Semitism took a legal civil action against YAHOO inc. a US company and YAHOO France, a French company. The Plaintiff argued that YAHOO Inc. was organ sizing on its website to auction Nazi items. The web site could be seen in France and individuals could have access directly due to their provider or when connecting to YAHOO France.

The Plaintiffs cited 651-1 of the French Criminal Code which prohibits wearing or showing signs, symbols etc of the nazi regime. An emergency injunctive procedure to hear the case and requested the Judge to prevent such material being seen in France under a 100,000 FF daily penalty for delay.

The Defendants, YAHOO argued that the French Court had no jurisdiction to hear the case as the corporation was located in the US, and the US Constitution guaranteed freedom of expression, moreover they argued that it was technically impossible to identify people accessing from France to the web pages dedicated to auctions. Yahoo Inc, did however warn users against hatred speeches and racial discrimination.

In a decision of May 22 nd 2000 the Court deemed that the Plaintiff suffered, “ a real damage because of such publishing on the web”. The Court said “ to present a collection of Nazi items, that could be brought in auctions was a breach of the criminal code. Moreover, it was an insult to the collective memory of the Country, which was deeply wounded by the atrocities of the Nazis against its nationals especially against the Jewish community. The Judge ordered that Yahoo Inc prevent net users living in France from accessing any net site promoting any apology for the Nazi regime or selling Nazi items by auction.

In January 2001 there Yahoo Inc were reported not continue selling Nazi items by auction. Yahoo said the decision had nothing to do with the French Court decision.

The other side of the official response in France relates to one of the highest rates of deaths in custody and unlawful killings, which are the subject of ongoing concern particularly to the North African community. The shooting in Lille of a black teenager in a stolen car led to the suspension of the police officer concerned. The French system of inquisitorial justice does however have a higher rate of conviction of police officers charged with murder/manslaughter.

Portugal

“The Caldas da Rainha Case”

On 12th December 1990 the directors of the Calda da Rainha local bank branch issued a report stated that a change of strategy promoted by the central bank would be subject to a Director and his “Paki” adviser. The adviser found the phrase offensive and that it had been used with a racial motivation. He complained under section 189(2) of the Criminal Code. The District Court held that the decision did not apply to the protection of the individual’s interest rather than to the protection of humanity against racial discrimination.

The Court of Appeal revoked the decision and held that the crime of racial discrimination protects the interest of each person subject to offensive words and discrimination on grounds of his race.

“The Bairro Alto Case”

In 1995 a black man was beaten to death and several others were violently attacked by a group of 15 white skinheads who went our for the evening set upon killing any black person they came across. They went equip with baseball bats; sticks and steel

capped boots and went to the multi racial part of Lisbon called Almada. The Supreme Court of Justice increased the sentences from 2 to 8 years imprisonment to 1 to 17 years. The Court was satisfied that the skinhead movement to which the gang belonged appealed to the superiority of the white race, was against immigration and was in favour of their banishment from the national territory.

The fact that the homicide took place due to the victim's race represents an aggravating circumstance under the Criminal Code which should be taken into account when determining the seriousness of the offence.

Section 132 states that, the severity of the punishment shall be increased if the motivation is the killing of a person on grounds of race, colour, national or ethnic origin or faith...the offender shall be sentenced to imprisonment from 12 to 25 years.

CONCLUSIONS

Most of the Council of Europe countries have amended legislation in the last ten years following the United Nations Convention of 1966. Most countries have however been slow in amending legislation to keep pace with the rise of racism and xenophobia. The political surrender to the agenda of the far right has legitimatised attacks on anyone seen as "alien", "foreign" as evidenced in the UK by the targeting of asylum seekers. See The Killing of Ruhullah Aramesh in Thornton Heath in 1992 and the attack on three Turkish men in Newport heard at Newport Crown Court in December 2000.

There needs to be more emphasis on both prevention and detection of racist crime with the adoption of a number of initiatives aimed at isolating racists in Society. The creation of an environment where the crimes are deemed unacceptable must be a priority for the MPA.

A serious concern for those in the MPS and CPS, particularly in the Race and Serious Crime Task Force was identified by the Director of Public Prosecutions in his speech to the CPS Diversity conference in Birmingham on 16/2/2001. He stated that there was clear evidence that the CPS were putting forward evidence of aggravating circumstances in a range of offences under s 28(3) of the Crime and Disorder Act only to have Judges refuse to recognize that racism was an issue. In one case the use of the word "nigger" was said to be a vulgar expression not indicative of racism.

The work of the MPA and MPS will be compromised in this area if the work to combat race hate crimes is not supported fully by the Judiciary. The need for consistency across Europe is essential if the free movement of people is to have full legal effect for the people of London.

Finally the danger of race hate crimes and of the emergence of serious networking by race hate crime groups must lead to a greater awareness and targeting of such groups by the MPS and CPS in the future. The co-operation between the various EU

states is essential in this regard. As a reminder of the real cost if one were needed it was the 10th anniversary of the murder of Rolan Adams, the young boy killed a mile from the killing of Stephen Lawrence on 21/2/1991.

RECOMMENDATIONS

- 1> The MPA request that the MPS work on hosting a race hate crime seminar in 2002 to share information, techniques and good practice amongst the Council of Europe countries.
- 2> The MPA recommend that the MPS facilitate a London wide Multi-Agency approach to hate crime involving the CPS, MPS, London Local Authorities, the London Magistrates Service, Probation Service, the Mayor of London and the Recorder of London, the Law Society and the Bar Council, CRE and EOC. There is at present no London wide body responsible for co-coordinating the capital's response particularly there is no joined up approach across the Capitals linking both the civil and criminal law. This is a requirement to ensure there is a uniform approach to tackling hate crimes across the capital.
- 3> The MPS publish (jointly with CPS) every three months, on the internet a list of successful prosecutions for all race hate crimes similar to that produced by the Belgian Court Service. This information would be a valuable tool in the fight against race hates crimes providing information to the police, and local authorities and to the wider community as to the progress being made.
- 4> A close liaison be maintained between the MPA and the "Race and Violent Task Force" with a quarterly update on the extent of hate crimes being committed in London in general and the prevalence of incitement material on the internet in particular.
- 5> The exchange of quarterly briefings between EU states as to the monitoring, prosecution and conviction rates for race hate crimes with a systematic monitoring of the internet in each jurisdiction. The need to review primary legislation should be raised with the Home office in this regard.
- 6> The issue of the Judiciary's apparent failure to identify and use s 28(3) Crime and Disorder Act should be raised by the MPA with the DPP, the Lord Chief Justice and the Recorder of London as well as the Judicial Studies Board at the earliest opportunity.
- 7> The MPS be requested to provide a feasibility study into the funding of a London wide campaign against racial violence in consultation with the Mayor of London.

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