

The impact of labeling theory on the Gypsies and Travelers in the United Kingdom

By Shaka Yesufu

(Criminology department University of Kwazulu Natal South Africa)

Abstract

The persecution of Gypsies and Travelers in the United Kingdom is not a new phenomenon. It goes back many centuries when Gypsies first set foot on the European continent. It was estimated that over half a million Gypsies were exterminated by Adolf Hitler in Germany during the Holocaust. In today's France under President Francois Hollande, the Gypsies are still being persecuted. The effects of labeling theory has made the Gypsies undoubtedly and unarguably among the most hated groups living in Europe today. They have endured societal rejection, hatred, discrimination, cruelty and inhumane treatment, and denial of the basic necessities of life, for example housing, education and healthcare. Their ability to endure hardship (stoicism) and a total rejection (alienation) from the wider society over the years is inspiring to us in academia. This article is a clarion call to all men and women of good conscience all over the world to come together to consign the persecution of Gypsies to history.

Keywords

Labeling theory, travelers, Gypsies, stereotypes, discrimination,

Introduction

In this article, the researcher discuss some issues of discrimination against Gypsies and

Travelers in relation to land ownership. This article is divided into four sections. The first part deals with understanding labeling theory and the historical background of Gypsies and Travelers. The second part deals with some of the United Kingdom legislation in relation to Gypsies and Travelers. In the third part of the article the researcher present a case-study (the Dale Farm site) and highlight the level of racial and social injustice that the Gypsies and Travelers community has endured in Britain over the years. In the fourth part the researcher look at what should be done to improve the social living conditions of Gypsies living in the United Kingdom.

Gypsies

“Gypsies” denotes groups formed by the dispersal of commercial, nomadic peoples from India from the tenth century onwards who mixed with Europeans and other groups.

It is complex and problematic to make attempts to define who is a Gypsy in English law. Under the Race Discrimination Act 1976, Gypsies are defined by reference to membership of a ‘racial group’ through birth, marriage or by ethnic criteria.

Meanwhile, in planning law, the definition of Gypsy relates to property ownership.

Gypsies and Travelers are defined as:

“Persons with nomadic habits in life, whatever their race or origin”

The term ‘Gypsy’ first appeared in record around 16th century from group of travelers mistakenly thought to be Egyptians who arrived in Britain via Central Europe from South Asia.

Travelers

“Travelers” refers to a number of predominantly European groups whose culture is characterised by occupational fluidity and nomadism. Travelers are predominately of European origins. They can be found in different countries like : Ireland, United States of America, France and United Kingdom. They are known to be predominately Roman Catholics and speak two main regular dialects “Shelta and Cant” as medium of communication.

Romas

“Romas” is a broader term used to refer to persons who speak some varieties of the Romani language and/or any person identified as “Tsigane” in Central and Eastern Europe, or is used loosely to refer to Romani/Gypsies in general. Romanies living in Britain are descendants of Egyptians who arrived in Britain around the 16th century.

The Romani are widely dispersed , with their largest concentrated populations in Central and Eastern Europe. Since the 19th century a large number of Romanis have migrated to the USA to avoid persecution in Europe. Some are found in Canada and South America. Many Romanis are native speakers of the language current in their country of residence, or of mixed languages combining the two known as the use of ‘Para-Romani’ language.

In 1596, one English Statute gave Romanies special privileges that other wanderers lacked, France passed a similar law in 1683, Catherine the Great of Russia declared the Romanies “crown slaves” Romanies were kept as slaves in Moldavia until 1856 . In Czechoslovakia , Romani women were sterilized to prevent them from having children between 1973 and 1991 (www.crystalinks.com/roma) members of the Romani groups can be found practicing Hinduism, Islam and Christianity. In 2010, French authorities

Field Code Changed

demolished 51 illegal Roma camps and began a process of force repatriations of Romas to their countries of origin (Ibid).

Gypsies and Travelers groups in Britain are formally regarded as ethnic minorities^{*1} (CRE V Dutton [1998] English Gypsies), (Kiely & others v Allied Domecq P & others [2000] Irish Travelers).

The persecution of Gypsies has a long history in the United Kingdom. In 1530, King Henry V111 said

“diverse many outlandish people calling themselves Egyptians have been going from place to place and used great and subtle means to deceive the people .. that they being palmistry can tell men’s and women’s fortune...deceived people of their money and have also committed many heinous felonies and robberies” One can deduce from this statement dating back to 1530 that the classification of Gypsies as the “other” belonging to a “dangerous class” is well documented.

The Gypsies’ and Travelers’ cultural values are nomadism, the dominant position of the family and extended family, early and close kin marriages, rituals during deaths and marriages, and the preservation of languages and dialects.

Labeling theory

Theory is a set of concepts linked together by a series of interconnected propositions in an organized way to explain a phenomenon. Labeling theory is sometimes referred to as “social reaction theory which is primarily concerned about how individuals or group identities are highly informed by the way that society or authority tends to categorise

them as offenders. With such categorization or labeling, an offender becomes a self-fulfilling prophecy...” (Tibbert 2012:173).).

Self –fulfilling prophecy

The concept of ‘self fulfilling prophecy’ was developed by Robert K Merton (1948). He defined self fulfilling prophecy as ‘ a false definition of the situational evoking a new behavior which makes the originality false conception come true’ Merton explains how a belief or expectation , whether correct or incorrect may affect the way a person or a group will behave towards each other. For example , labeling someone a “criminal” and treating that person as such , may foster criminal behavior in the person who is subjected to the expectation (The Columbia Electronic Encyclopedia)

Previous labeling theorists have also argued that there is a link between being labeled a deviant and self-fulfilling prophecy. They have argued that for a person or group to be labeled as deviant(s). They are likely to assume certain characteristics associated with such labeling(see, Becker 1963: 43; Erickson 1962:311). It is important to mention here that the issue of power relations and class in our society contributes to how persons are labeled as deviants. The majority or the powerful are placed at advantageous position to being able to affix deviant labels on members of minorities or groups found in that particular society The labeling of the Gypsies as miscreants and rejects of the British society is a good case in point.

Early labeling theorists defined labeling as a ‘process of tagging, identifying, segregating, making conscious and self-conscious...a way of stimulating , suggesting, expressing and

evolving only traits that are complained of" (Tannenbaum 1938).

According to Edwin Lemert (1972) introduces us to two types of deviance in relation to labeling theory. He argues that both the primary and secondary deviance is intrinsically linked. Primary deviance is when an individual gets caught committing a criminal act and becomes labeled as such. Secondary deviance is the reaction society towards the individual who has been labeled or identified as being a criminal.

Howard Becker (1963) uses his research about student/ teacher relationship to buttress his arguments. He argued that if one student has been labeled deviant or problematic child by a teacher in a school, it generates an atmosphere of avoidance developed by other teachers and pupils in the same school who may not have had contact with the labeled student. In the United Kingdom today, a similar culture of avoidance adopted by the majority has put in place towards the Gypsies for over a generation.

Next, the researcher looks at the controversial issue of land ownership and rights in the United Kingdom

Land ownership and registration in the United Kingdom

The ownership of land in the United Kingdom is a complex and rigorous process. First, all landowners are required under the Land Registration Act 2002 to register their ownership. In doing so, landowners must register their land with a land registrar. Second, in most estates where there are no buildings, the owner must seek clearance or planning permission from a local council to build his/her house. Few Gypsies manage to raise capital to buy land; those that do find that, due to popular anti-Gypsy feelings, councils succumb to the pressures of the majority by refusing them planning permission to build

homes. In the United Kingdom, all ownership of land is documented in the lands and property register. For a better understanding of the land registration process, let us look at the three distinct headings under which it is defined:

- a. Land: This includes the full description of the land, who registered it and when the registration was finalized. It also shows the boundaries and size of the land.
- b. Rights: This includes a description of the rights of the owners of the land. For example, rights to graze sheep (on the land) fall into this category.
- c. Ownership: This includes details of the owners of the land.

The Land Registration Act 2002 replaces the law for land registration in the United Kingdom. This Act governs the role and practice of land registration in the United Kingdom. The researcher present here some of the radical changes that emanated from this Act:

1. The Land Registration Act 2002 simplifies and modernizes the land registration law and provides a forum for the first major radical changes of their kind in 75 years.
2. It presents a clearer picture of a title to land showing more fully the rights and interests affecting it.
3. It provides a framework for the development of electronic conveyance.
4. It created a criterion where all short leases must now be registered.
5. The law in relation to adverse possession (squatters' rights) has been reformed.

Section 6 (1) of the Land Registration Act 2002 imposes a statutory duty on the owners of an estate to register their title with the registrar before the end of the two-month

registration period allowed. The timeframe commences when the owners purchase or occupy the estate.

What are “squatters’ rights?”

For the benefit of my readers outside the United Kingdom, this simply means that a person enters a property without the knowledge or authority of the owner, and resides in this property within a certain timeframe; if no-one lays claim to the property, the squatters assume full rights of ownership of the property after 10 years. The squatters’ rights were meant to discourage property owners from leaving their buildings uninhabited and in a dilapidated state. Basically, a squatter occupying a registered piece of land or property can apply to be registered as the owner if they have been in adverse possession of it for 10 years; such property will automatically become theirs. Many would argue that the law on adverse possession rewards criminals (trespassers) by encouraging them to enter property in the hope that it will one day eventually become theirs.

In this article, the researcher shall argue that Gypsies are regarded as belonging to the underclass. They are victims of long-held stereotypes and societal prejudices directed against them for over a century. They suffer discrimination due to a lack of understanding of their culture. A majority of the public apparently views Gypsies as rejects from society, outcasts, members of the criminal fraternity and lazy. They are also described as being violent, dishonest, state benefit cheats, tax dodgers, drug dealers and receivers of stolen goods. With this level of negative characteristics defining what a Gypsy is, one can understand why the majority of the British public will do all they can to keep them at arm’s length.

The majority of United Kingdom citizens mindset is already set in antagonistic mode

against Gypsies. This is a possible explanation for the high number of rejections by local councils when Gypsies make land applications and seek permission to build homes (see Kenrick and Bakewell, 1995).

Some of the United Kingdom's eviction laws

In the United Kingdom, every landowner has the right to remove trespassers from their land under common law and can do so within 24 hours. The removal of Gypsies occupying land has grown into a multimillion pound business, with some private firms displaying bravado in their adverts proclaiming their ability to employ ex-police officers to forcibly remove unwanted Gypsies from people's estates.

(see, <http://www.uniqwin.co.uk>).

The researcher argue that there is nothing to brag about in such inhumane treatment meted out to one's fellow human beings. As far as the researcher is concerned, this is a callous act that teeters on the brink of inhumanity and should not be allowed to continue. Some commentators would argue that the Gypsies are very unhygienic people and it takes a lot of money to clear up illegal caravan sites after they have left. Had the British government met its welfare obligations of providing housing for its citizens, this ugly degradation of Gypsies would not have occurred and they would not have needed to establish illegal campsites in the first place.

In looking at some of the UK legislation as it affects or might affect Gypsies and Travelers' social wellbeing and property rights, it can be argued that the United Kingdom has a wide range of property law legislation and equality laws that were promulgated to protect minority groups. This legislation includes the Race Relations Act 1976, as

amended in 2000, and the Equality Act 2010. Notwithstanding this protective legislation, Gypsies and Travelers remain one of the most resented minority groups living in Britain and are treated less favorably than members of other races. They are discriminated against in nearly all spheres of social activity including housing, healthcare, education, employment and the criminal justice system.(<http://www.gypsy-traveller.org.uk>,^{*2} <http://www.thegypsycouncil.org.uk>,^{*3} <http://www.travellerslaw.org.uk>.)^{*4}

It is paradoxical that Britain's race discrimination and equality laws were enacted to supposedly protect Gypsies and Travelers but unfortunately appear to be failing to do so.

Let us look at some of this legislation in more detail:

The Race Relations Act 1976 section 1 (1)^{*5} makes it unlawful to discriminate on "racial grounds". Section 3 (1) of the Act defines "racial grounds" "as a group of persons defined by reference to colour, race, nationality, or ethnic or national origins." In the case of *Mandla v Dowell Lee* [1983] 2 AC 548 at 562^{*6}, Lord Fraser provided guidance on the meaning of "ethnic origins". It contained two essentials and five characteristics. The essentials are: a long-shared, distinctive history, the memory of which keeps it alive; a cultural tradition of its own, including family and social customs and manners often, but not necessarily, associated with religious observance.

The five characteristics are: a common geographical origin; language; common literature peculiar to the group; common religious groups; not being a minority or being oppressed or a dominant group within a larger community (see *McCarthy v Basildon DC* [2009] EWCA Civ 13).^{*7} This case highlights the fact that the British law does not guarantee protection for the Gypsies.

Section 71 (1) RRA 1976 (as amended 2000)^{*8} provides for "everybody or other persons

specified in Schedule 1A”. This includes the following: public authorities, government departments, local government, health, educational bodies, libraries, museums, galleries, student loan companies. They all have a statutory duty to perform the following:

- a. To eliminate unlawful discrimination
- b. To promote equality and good race relations between persons of different racial groups.
- c. The Secretary of State is given power to impose “specific duties” including “impact assessments where public institutions are failing to implement their race and equality statutory duties”.

The relevance of the Race Relations (amended) Act 2000 is that it places a race equality duty on public authorities to promote the principle of equality of opportunity. It has made it possible for individuals to bring cases against the police, who previously had not been subject to statutory race legislation as a public authority. One of the achievements of the Macpherson Report 1999⁹ was to provide a foundation to bring the police service under the remit of the Race Relations Act 1976.

Article 14 of the Race Equality Directive^{*10} provide protection for victims of discrimination on six prohibited grounds: race, sex, religion, disability, age and sexual orientation. It makes legal provision for victims to challenge UK laws that are not compatible with the principle of equal treatment and that discriminate against minorities, for example Gypsies and Travelers living in the UK. ([www.cre.gov.uk/policing/Gypsies and travellers.html](http://www.cre.gov.uk/policing/Gypsies_and_travellers.html)).^{* 11}

The Caravan Sites Act 1968 section 10^{*12} which applies to all “persons of nomadic habit of life, whatever their race or origin”. The purpose of this piece of legislation was to

compel local authorities to provide sites for caravans in designated areas, and it became a criminal offence to park anywhere out of the designated area (see Forrester, 1985). Similarly, the Mobile Homes Act 1983^{*13} and the Town Planning Act 1990^{*14} were both passed to meet some of the housing needs of the Gypsies and Travelers community. But all this legislation was abolished by the passing of the Criminal Justice and Public Order Act (CJPOA) 1994.^{*15}

The CJPOA abolished the duty of local authorities to provide sites for Gypsies and Travelers; it gave powers to the police to evict travelers from illegally occupied sites; it made criminal the failure of a Traveler to leave when ordered to do so by the council and the police; it made any re-entry by Travelers in certain circumstances after eviction a crime. It is a draconian piece of legislation that conflicts with Article 8 of the European Convention on Human Rights and the United Kingdom Human Rights Act 1998 (the right to respect for private and family life)^{*16}.

Let us pause and critically analyse the level of protection this legislation was designed for. Article 8 states that: “Everyone has the right to respect for his private life, his home and his correspondence” This has not necessarily been the case, as we have observed in Britain a complete disregard for this Article and many breaches of it. How can we talk about “respect for home” when we have observed Gypsies’ temporary homes being demolished by contractors supervised by bailiffs and the police? The process of evicting Gypsies is very inhumane and degrading. Millions of pounds that could have been wisely spent on providing new homes for citizens have been diverted toward the process of evicting Gypsies.

The process by which landowners can evict trespassers occupying their property is as

follows:

1. Inform the trespassers that they must leave as they have no express or written permission to enter or stay on the property.
2. Inform the trespassers that a court eviction order will be sought if they fail to voluntarily leave the property.
3. Take out a court order and give the trespassers a court hearing date.
4. Obtain an eviction order from the court.

It can be argued that there are some caveats to this law; these include situations where a person's right to his or her home may be interfered with due to issues of national security and if said right poses a threat to it. They also include circumstances involving the prevention of disorder or crime, the protection of health and morals or the protection of the rights and freedoms of others (see Gray & Gray, 2009:116).

The passing of the "Single Equality Act 2010"*¹⁷ had the following objectives:

- a. To eliminate discrimination, harassment, victimization, and all prohibited grounds of discrimination.
- b. To advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share such characteristics.
- c. To foster good relations between persons who share relevant characteristics and persons who do not share such characteristics.
- d. To remove or minimize disadvantages suffered by persons of relevant protected characteristics.

This Act, like the previous ones, has failed to transform and protect the lives of Gypsies and Travelers.

The case of Dale Farm, Essex

I present here a case-study - Dale Farm, Essex - as a good example of how problematic the United Kingdom equality laws are when it comes to protecting Gypsies and Travelers. Our existing laws are designed in theory to protect Gypsies and Travelers but in practice have not only failed to do so but are also leaving Gypsies and Travelers more vulnerable to the three-pronged hostility they face from local councils and politicians, the criminal justice system (police and courts) and the wider community (see O'Conneide, 2008).

According to one EHRC report (2007)^{*18} “the Travellers community at Dale Farm in Billericay, Essex, United Kingdom, brought a case of racial and disability discrimination against Basildon District Council in the High Court London in February 2008. Basildon District Council has decided to evict the community, which includes 150 children and a number of disabled people. The Commission for Racial Equality intervened to advise the Court on how the law in relation to race and disability discrimination should be applied in cases where Councils decide to evict Gypsy and Traveller communities from unauthorized sites. The High Court ruled that the Council's decision to evict the community was unlawful as it was indirectly discriminatory; the Council had failed to take into account a number of issues including homelessness obligation and individual needs of the Travellers: they had a need for accommodation which the Council should have addressed”

Basildon District Council appealed against the decision in the Court of Appeal which ruled in their favour in December 2008. In March 2009, the Traveling community at Dale

Farm was granted legal aid to take their case to the House of Lords. The traveling community was finally evicted from Dale Farm at a costly price of over £6 million (see Cemlyn et al. 2007, EHRC Report)^{*19}. This report also provides us with the following findings that affect or might affect the Gypsy and Travelers community:

- a. Economic inclusion and access to employment denied;
- b. A denial of access to the medical healthcare system;
- c. Exclusion from social care, education and other public services;
- d. Constant prospect of discrimination and harassment from the police and the British criminal justice system.
- e. Increased likelihood of becoming victims of domestic violence and high suicide rates.

On 4th July 2011, the occupants of Dale Farm in Essex were formally served with camp eviction notices by Basildon Council. The eviction notices were reported to have demanded that the Gypsies and Travelers vacate England's largest Travelers site or face the risk of being physically ejected. It is estimated that it will cost the British taxpayer another £9.5 m to carry out the eviction.

Recommendations

1. The British government should stop the persecution of Gypsies and Travelers by ensuring that the current protective legislation is enforced.
2. The Equality and Human Rights Commission should be more proactive in insisting that a human status in law be accorded the Gypsies and Travelers.
3. The history, culture and understanding of the Gypsies and Travelers' ways of life should be incorporated into the school and universities curriculum. This is

imperative because some of the stereotypes and prejudices we share about Gypsies are undoubtedly inaccurate and misleading because they are not based on facts.

4. Gypsies and their families should be encouraged to seek access to education, healthcare and housing.
5. The British government should employ a housing minister to look into the issue of accommodation and how it affects Gypsies and the wider society.
6. The land registration and planning permission application process should be more transparent.
7. Members of the Gypsies and Travelers community should be appointed to sit on the councils' land registry and allocation panels. This will ensure transparency and equitable distribution of land and property. Local communities should establish consultative liaison forums with representatives from the Gypsy communities to address their priorities and most pressing needs.
8. Gypsies and Travelers should be invited back into communities, as ostracizing them is discriminatory and unlawful.
9. Stiffer sanctions should be applied to members of our community who contribute towards making the lives of Gypsies unbearable.
10. The British media should be fined and sanctioned and their operating licenses revoked if they publish any racist material about Gypsies. They should play an active role in debunking some of the myths and moral panics that they have created and sustained over the years.
11. Gypsies should be allowed to continue practicing their ways of life and

religion without fear of harassment or molestation.

12. Small business loan schemes should be facilitated by banks, encouraging Gypsies to become economically independent and enabling them to determine their own destinies.

Conclusion

In this article, the researcher looks at the level of discrimination encountered by Gypsies and Travelers living in the United Kingdom. The researcher argued that Gypsies continued to be one of the most persecuted groups living in Europe today. They are denied rights to family life, education, Property and access to land. The researcher looks at how labeling theory has affected the way we relate to Gypsies and travelers living in our communities, they are often rejected and treated as aliens, criminalized as members of criminal gangs responsible for crimes in our community. The researcher made reference to the Dale Farm incident where some of the British eviction laws were tested and put into legal context and understanding.

The researcher interestingly has no blood or any other form of social or biological relationships with the Gypsies but is very much concerned as an academic to highlight the plight of the Gypsies as constituents members of his community who are permanently placed in a position of disempowerment. Second, the researcher's determination in creating and living in a just, fair and equal society giving access to people trapped in the position of 'down below' has persuaded the researcher to research on this topic. Third, the researcher grew up in Britain to observe some of the ill treatment towards the Gypsies, at

a very young age the researcher observed the level of discrimination and antagonism that Gypsies living in the United Kingdom have to put with.

Gypsies and Travelers continue to suffer many forms of discrimination in Britain. They have remained unarguably one of the most unprotected classes or groups under UK legislative provisions. The British government should be at the forefront of moves to stop the persecution of Gypsies in Europe because we have always pride ourselves as living in a democratic country . More importantly, they should be included in the equitable distribution of land and property in the United Kingdom. The researcher remains optimistic in the midst of despair when it comes to reflecting how badly Gypsies have been treated over the centuries. A starting point would be to put an end to the ongoing persecution of Gypsies all over the world, as the Gypsies' plight is not peculiar to the United Kingdom but a global issue that demands a global solution.

Endnotes

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3. <http://www.the.gypsy.council.org.uk>
4. <http://www.travellers.law.org.uk>
5. The Race Relations Act 1976, Section 1 (1)
6. Mandla v Dowell Lee [1983] 2 AC 548 at 562
7. McCarthy v Basildon DC [2009] EWCA Civ 13
8. Section 71 (1) RRA 1976 (as amended 2000)

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