



No. 83

Crime in a Shrinking World

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It is now trite to suggest that the world is a shrinking place. This shrinking has been highly beneficial. Australians now enjoy economic, cultural and recreational opportunities which were previously not available. On the other hand, the global village has its dark alleys. Once remote from some of the more unpleasant aspects of life elsewhere in the world, Australia is now threatened by dangerous influences from around the globe. Consequently, it is perhaps now appropriate to speak of "the tyranny of proximity".

The rapid mobility of people, money, information, ideas, and commodities generally, has provided new opportunities for crime, and new challenges for law enforcement agencies. This paper reviews some of the major themes of crime and crime control in today's small world. It observes that linkages between events and institutions overseas and at home are inevitable, and will inevitably proliferate. Recognising that a return to isolation is out of the question, we discuss policy implications for crime control in a global village.

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Transnational Crime

Crime can transcend national boundaries, and as the Prime Minister of Australia has observed, "criminal activity takes direct advantage of these boundaries." (Howard 1998, p. 3). For example, Australians may fall victim to frauds originating on the other side of the world. One of the most common is the Nigerian advance fee fraud, where unwitting victims are advised that they may receive a bequest, or are offered an incentive to assist in the international transfer of funds, if they pay a fee in advance and/or facilitate access to their own bank account. Those unwise enough to do so have found their assets disappear.

While such crimes are committed by letter and fax, new technologies permit new forms of crime. A criminal can sit in one country and disrupt a computer system in another country thousands of kilometres away.

Computers may serve as instruments of theft as well as vandalism. One website in Canada purported to offer free adult entertainment, available by downloading a special "viewer". The act of downloading the software, unbeknown to the user, disconnected the user's modem from their local service provider and re-routed the connection through a provider in Moldova. The connection continued even after the user had left the site, and remained on until the computer was turned off.

**AUSTRALIAN INSTITUTE
OF CRIMINOLOGY**

trends

&

issues

in crime and criminal justice

March 1998

ISSN 0817-8542

ISBN 0 642 24063 0



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For subscription information together with a complete list of the papers in the Trends and Issues in Crime and Criminal Justice series, visit the AIC web site at:

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Only later did their telephone bills indicate that they had incurred international calling charges in excess of A\$2 per minute (*Corporate Crime Reporter*, 24 February 1997; *Internet Australia*, April 1997).

The ease with which international financial transactions may be accomplished today facilitates the laundering of money. Similarly, income obtained from legitimate sources may be concealed from taxation authorities. Australia may be the source, the destination, or a transit point for "dirty money".

In addition to those offences committed by an offender in one nation against a victim or victims abroad, criminals themselves may cross national borders to commit criminal acts. This is by no means novel; but economic and political impediments to trade and travel are fewer than ever, and mobility creates criminal opportunities (McDonald 1997, pp. 1-22). Moreover, the dramatic increase in the number of legitimate transactions make those criminal transactions occurring in their midst that much more difficult to detect.

A variety of illegal activities may take place on the way into or out of Australia. Smuggling of drugs, weapons and other contra-band, and illegal immigration, are perhaps the most familiar manifestations: "international criminal networks are becoming increasingly sophisticated, with greater access to the latest technologies for both the concealment and smuggling of drugs as well as the proceeds of their crimes" (Howard 1998, p. 4). Other criminal activities include traffic in endangered species, stolen art, antiques and protected cultural artefacts, and a variety of offences relating to environmental pollution. In addition, the illicit overseas production of credit cards and negotiable instruments such as bearer bonds, and their presentation in Australia, can challenge the internal controls of financial institutions.

Australia has also been used as a staging ground for criminal activities abroad. Perhaps the most dramatic

recent example involved the Aum Sect, which purchased a sheep station in Western Australia and used it to test gases for use in their attack on the Tokyo subway system in 1995 (McFarlane & McLennan 1996).

Crime Against Australian Interests Abroad

There were 2.7 million short-term departures of Australian residents to overseas destinations during 1996 (ABS 1997). Fortunately, most manage to stay out of harm's way. But a few do not, and fall victim to offences from purse snatching to homicide.

The globalisation of commerce means that more Australian businesses are active overseas than ever before. The intensely competitive nature of world commerce is such that Australian companies face a significant risk of becoming victims of a variety of offences. One potential threat is that of industrial espionage. Competitors, and at times, foreign governments, might seek to acquire strategic economic intelligence, trade secrets, or intellectual property by illegal means.

Another risk, less related to global competitiveness than to political and social factors, is that of extortion. In some locations around the world where public security is a major problem, expatriate executives and staff are targeted for ransom kidnapping.

In the case of minor offences, a tourist or business-person might be able to shrug off the experience as just an unfortunate aspect of overseas travel. But depending on the gravity of the incident, there may be a call on Australian consular services for emergency assistance. In the case of crimes against businesses, security measures will increase the cost of doing business, and may detract from the profitability of an investment.

Crimes Committed by Australians Abroad

Australians travelling abroad do not always conduct themselves with perfect decorum. According to Biles (1992) over 1000 Australians are arrested overseas each year, and between 150 and 200 are held in foreign prisons at any given time. Perhaps the most noticeable examples from an Australian perspective are persons unwise enough to be found in possession of drugs in those nations where such activity is met with severe punishment.

Certain other forms of conduct on the part of Australians overseas may escape the full force of law in the host country, but are nevertheless regarded as seriously repugnant. Most prominent among these in recent years has been child sex tourism.

But the transgressions of expatriates are hardly limited to the above offences, and Australians are held in prisons around the world for a wide range of criminal activities (Biles 1992).

Apart from the poor impression of Australia and Australians created by expatriate criminality, such activity may impose burdens on our own, as well as on foreign governments. Although some observers might subscribe to the notion of "good riddance", the presence of Australian citizens in foreign prisons requires attention on the part of Australian consular officials. Some nations find that foreign prisoners from significantly different cultural backgrounds are more difficult to manage. In some cases, punishments imposed upon foreign nationals by some overseas jurisdictions have been perceived as inordinately severe, and have strained diplomatic relations between the two governments.

Those Australians incarcerated overseas who are eventually repatriated may face significant problems of reacclimatisation, with consequent implications for welfare and criminal justice systems at home.

Global competition may enhance the risk that Australian business may be offenders as well as victims of crime. Pressures to engage in corrupt practices may be insurmountable. Some of the most promising markets for Australian products exist in places where bribery has traditionally been an essential prerequisite to doing business. The world of international business is a complex place. While the governments of some nations allow their companies to deduct foreign corrupt payments as legitimate business expenses, other nations define and prosecute such practices as criminal. The lack of consensus in the international community has provided some businesses with considerable competitive advantage, and worked to the great disadvantage of others.

Criminal Activities Abroad with Ramifications for Australia

Even if Australians are not directly involved as victims or offenders elsewhere in the world, crime occurring overseas can have significant implications for Australia.

In general, Australia's economic and strategic interests are best served by world economic growth and political stability. To the extent that an overseas nation's economy is crippled by crime and corruption, it is that much less of an attractive market for Australian exports.

One need only look to events of the past year in Albania to see the transnational ramifications of domestic criminality. A massive fraud resulted in a significant number of Albanians losing their life savings. This, in turn, precipitated the collapse of the government, and a substantial exodus of Albanians seeking refuge in neighbouring Italy, with consequent strains on Italian law enforcement, emergency services, and immigration resources.

Of no less significance is the potential for corruption to facilitate some forms of the trans-national

criminal activity noted above. The weakening of law enforcement or regulatory capabilities in one of Australia's near neighbours can greatly enhance the capacity of criminals to use that jurisdiction as a "safe haven", a staging area for a variety of criminal activities, or as a trans-shipment point for contraband. What appears at first glance to be an internal matter in a nearby nation may ultimately impact on the streets of Australia.

More generally, large scale financial crimes such as those which lead to the collapse of major financial institutions can shake the confidence of global markets. The recent demise of Barings Bank and the Sumitomo copper scandal have had significant reverberations for Australian institutions. The current Asian economic crisis, arising in no small part from criminal fraud, extortion, bribery and corruption in a number of nations which are major purchasers of Australia's exports, has already begun to affect Australia's domestic economy.

Finally, terrorist activity, whether it occurs within nations or cross-nationally, can impact adversely on distant nations. Australians bear the cost of airport security largely attributable to the threat (and at times the reality) of terrorist violence on the other side of the globe. And there is always the possibility that hatreds born overseas will manifest themselves in Australia, as has occurred, albeit on a limited scale, from time to time (Thompson 1996).

Crimes Committed in Australia with International Ramifications

Australia's prominence on the world stage is likely to intensify as a result of the forthcoming Olympics. This may well amplify the visibility of crimes occurring on Australian soil, with significant implications for the well-being of all Australians.

By way of illustration consider the issue of fraud. By world standards,

Australia's political and economic stability should make it an attractive place to invest. But the spate of corporate fraud which came to be known as "the excesses of the 1980s" saw Australian entrepreneurs become the butt of jokes in international financial circles, and Australian capital markets suffered accordingly. Few Australians were untouched by the recession of the early 1990s. The failure of some public financial institutions during the same period adversely affected the credit rating of more than one state government; the ensuing higher interest rates were a burden borne by all taxpayers.

In recent years, tourism has become a major Australian industry, and it is likely to increase in importance in the run-up to the 2000 Olympics and beyond. On an average day, nearly 12 000 short-term visitors arrive in Australia (ABS 1997). However, adverse publicity arising from well-publicised crimes against tourists can significantly harm Australia's reputation. Horrific incidents like the "backpacker murders" or the murder in mid-1997 of a young Japanese tourist are perhaps the most vivid. But less heinous experiences, such as theft from, or vilification of, tourists on any significant scale, may also contribute to an image of Australia as less than friendly, with significant implications for our economy.

Additional Considerations

The shrinking world also increases the risk that some forms of criminal activity, when effectively interdicted in one jurisdiction, may be displaced to another. Small states are particularly vulnerable to criminal exploitation. In some cases, displacement to safe criminal havens is facilitated by corruption, or other factors which produce a weakening in the legitimacy or effectiveness of a "host" government.

But displacement is by no means dependent on the collapse or near collapse of the state. In some

jurisdictions, mere relaxation of regulatory vigilance will suffice. The BCCI case, involving the collapse of a bank with 400 branches in 78 countries around the world, is illustrative. Those jurisdictions such as Australia, with more stringent prudential regulations in place, were spared the difficulties of presiding over the collapse of yet another financial institution.

Policy Implications

The issues discussed above seem likely to increase in salience to Australia as the world continues to become a smaller place. Transnational crime has become a serious security issue (Howard 1998). For all their virtues, economic growth, freedom of movement, and other elements of globalisation will create more work for law enforcement agencies, in Australia and overseas. Perhaps most importantly, this work will require a degree of transnational co-operation on a scale without precedent.¹ This need is intensified by the increasing membership of the international community. By way of illustration, in 1990 the United Nations had 156 member states. By 1997, membership had risen to 185.

Recent years have seen some prominent examples of the importance (and the difficulty) of obtaining international co-operation in furtherance of Australian criminal justice. Attempts to obtain the extradition of fugitives Robert Trimbole and Christopher Skase proved unsuccessful. Efforts to unravel the complex financial arrangements of Alan Bond fared somewhat better, but continue to require detailed and time-consuming engagement with authorities in Switzerland and elsewhere.

Perhaps most challenging in the years ahead will be the identification

and prosecution of trans-national offenders. The time, money and uncertainty involved in international investigations, and if successful, extradition proceedings, requires law enforcement authorities to exercise careful judgment in deciding whether to pursue these offenders. Moreover, the cooperation across international boundaries in furtherance of such enforcement requires a significant level of understanding between jurisdictions. Authorities in the nation where the offence originated or the offender resides may have their own priorities, which do not always coincide with those of Australian law enforcement agencies.

Enlisting the assistance of overseas authorities is not an automatic process, and often requires pre-existing agreements relating to formal mutual assistance in criminal matters.² Nevertheless, there are numerous examples of successful measures.

Criminal jurisdiction

Traditionally, Australia had exercised criminal jurisdiction where the crime took place in its territory. But (like some other governments) it may take unilateral action against citizens or residents if they commit certain criminal offences on foreign soil. Two of the most familiar examples in Australia are prosecutions for paedophilia, and for war crimes. But in many cases, this may still require the cooperation of a foreign government in obtaining evidence and possibly in extraditing the offender.

Bilateral agreements

The mobility of criminal offenders in a shrinking world has increased the need for arrangements to facilitate the apprehension and repatriation of those who seek to evade the law by fleeing to another jurisdiction. The

most common mechanism for this is extradition, which is done pursuant to a treaty or other formal arrangement between two nations.³ Australia was the originator of 33 and the recipient of 37 extradition requests pending at 30 June 1997 (Australia 1997, pp. 273-4).

Since 1985, Australia has adopted a "no evidence" approach as the preferred basis for international extraditions. The earlier approach required the production of a prima facie brief against the person sought, which effectively required foreign jurisdictions to produce evidence which accorded with Australia's technical rules of admissibility. This was particularly difficult for civil law countries. The new approach is reflected in most of Australia's modern extradition treaties and has generally facilitated cooperation between Australia and other jurisdictions.

Some jurisdictions seek to prosecute offences committed abroad by foreign nationals against their own citizens. The United States, for example, can seek extradition of alleged terrorists who have offended against citizens of the United States abroad. Extradition is by no means an automatic matter. Moreover, other impediments exist. Some nations will not extradite their own citizens under any circumstances. Australia, as a matter of policy, will not extradite a fugitive who would face execution in the jurisdiction seeking his or her return. Those jurisdictions which do practise capital punishment may waive the death penalty in order to obtain the extradition of a fugitive.

There are circumstances in which, as an alternative to extra-

¹ The Department of Foreign Affairs and Trade 1997-99 Corporate Plan identifies as a key priority "working bilaterally and multilaterally on other global security-related issues such as terrorism, illegal migration, refugee flows, narcotics, transnational crime, and food security" (p. 4).

² Following recent amendments to the *Mutual Assistance in Criminal Matters Act 1987*, Australia may now grant assistance in criminal matters to any country. Bilateral mutual assistance treaties are currently in force with 18 nations. A further four treaties have been signed, but are not yet in force.

³ By the end of 1997, Australia had signed bilateral extradition treaties with 32 countries. Twenty-nine of these were in force. A further 64 jurisdictions were covered by the London Extradition Scheme, which provides for the rendition of fugitive offenders among members of the Commonwealth of Nations. A special extradition relationship exists with New Zealand. Australian extradition laws have been applied to seven additional countries without a treaty. Australia has succeeded to extradition treaties entered by the United Kingdom with 21 countries in the late 19th and early 20th centuries.

dition, a nation may prosecute a citizen for offences committed in, and against the laws of, a foreign jurisdiction. Australia, for example, may prosecute Australian citizens for offences committed against foreign criminal laws, provided the relevant conduct would have been an offence under Australian law had it occurred within Australia. This process is only available within Australia in circumstances where Australia refused extradition on the sole ground that the person was an Australian citizen at the time of the offence, and only if the Commonwealth Attorney-General is satisfied that the requesting State would have refused extradition of its nationals in corresponding circumstances. There are no recorded cases of such prosecutions within Australia.

In addition to extradition, a variety of arrangements may be put in place to facilitate cooperation between nations in furtherance of criminal investigation. Mutual assistance treaties, as they are called, provide a legal basis for authorities in country "A" to obtain evidence for criminal investigations at the request of authorities from country "B".

Instruments of this kind cover a range of assistance including

- the identification and location of persons;
- the service of documents;
- the obtaining of evidence, articles and documents;
- the execution of search and seizure requests; and
- assistance in relation to proceeds of crime.

Australia was the originator of 162 mutual assistance requests, and the recipient of 130 requests by other nations, which were pending at 30 June 1997 (Australia 1997, pp. 276-7).

The *Mutual Assistance in Criminal Matters Act 1987* was amended in March 1997 to provide for "passive" application of the Act to all foreign countries, rather than requiring the Act to be specifically applied to particular countries by

regulation. This enables assistance to be provided and requested much more expeditiously than was previously the case.

In addition, the posting of law enforcement personnel overseas can facilitate the development of informal networks which can help expedite response to the various requests which may arise from time to time. Formal agreements are essential, but there is often no substitute for interpersonal contact. The Australian Federal Police (AFP) has 29 liaison officers stationed in 13 nations around the world. In addition to serving Australia's needs, the AFP and Australian consular staff are able to help overseas governmental authorities check on the probity of prospective investors from Australia. AFP liaison officers may also assist their hosts in the training of law enforcement personnel and in the exchange of intelligence.

Multilateral facilitation

International governmental organisations play a significant role in establishing the foundation for international cooperation in furtherance of criminal justice. By helping set policy agendas and establishing standard frameworks, they help achieve significant economies, and are especially helpful to those small nations whose resources are severely limited. The London-based Commonwealth Secretariat assists member nations in developing mutual assistance and extradition arrangements. The United Nations Drug Control Program helps coordinate activities relating to the international control of narcotic drugs and psychotropic substances.

International treaties and conventions

These multilateral institutions deal with specific substantive or procedural issues. Illustrative examples include the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

The United Nations also provides standard frameworks such as the Model Treaty on Mutual Assistance in Criminal Matters,

adopted by the General Assembly on the recommendation of the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders. A United Nations General Assembly Special Session on Drugs is scheduled for June 1998.

In addition, organisations such as the Council of Europe have arranged multilateral conventions such as the European Convention on Extradition (1982); the European Convention on Mutual Assistance in Criminal Matters (1987); the European Convention on the Control of the Acquisition and Possession of Firearms by Individuals (1987); and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990).

The Financial Action Task Force (FATF) established in 1989 by what was then known as the G-7 major industrial nations, developed a policy framework to combat money laundering around the world. FATF now embraces 26 members, and includes an Asia Secretariat located at the headquarters of the National Crime Authority in Sydney, specifically to promote effective policies against money laundering in the Asian region.

In December 1997 the Council for the Organisation for Economic Cooperation and Development (OECD) completed a multilateral Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The Convention requires parties to prohibit acts of bribery of foreign public officials, and is designed to ensure that the international community cooperates in addressing this problem in an effective and coordinated manner. The Australian Government has announced that it will take steps to become a party to this Convention.

Finally, the international police organisation INTERPOL provides a network to facilitate the sharing of information and intelligence between participating police agencies around the world.

International non-governmental organisations

Non-governmental institutions may also contribute to activities with beneficial impact for criminal justice. The Council on Security Cooperation in the Asia-Pacific (CSCAP) was established in 1993 to provide a structured process for regional confidence building and security cooperation among countries and territories in the Asia-Pacific region. Among its goals is to better understand and articulate the security implications for the region posed by transnational crime. Transparency International, the multinational anti-corruption group, has been instrumental in promoting uniform legislation which would proscribe the offering of bribes in international business.

Law enforcement agencies, singly or in combination, are not omnipotent. Some forms of transnational crime, particularly those involving complex commercial fraud, would appear appropriate for a degree of response by the private sector. Indeed, an entire industry has begun to emerge, in which multinational companies provide loss prevention and security services to private clients. State agencies in many countries would be hard pressed in the current fiscal climate to provide such services.

Conclusion

Those societies who ignore the increasingly international nature of crime do so at their peril. By contrast, those who recognise the problem and who plan for and adapt to a “smaller” world are likely to benefit most and suffer least. Australia’s cosmopolitan society lends itself well to adjusting to the criminal aspects of life in the global village. Continuing analysis of crime and social issues at home and across nations (McDonald 1997), and continuing liaison between Australian criminal justice agencies and their overseas counterparts, will help further this adjustment.

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ACKNOWLEDGMENTS

John McFarlane and Alastair McGibbon of the Australian Federal Police, Mark Scully of the Department of Foreign Affairs and Trade, and officers of International Branch, Criminal Law Division of the Commonwealth Attorney-General’s Department provided helpful comments on earlier versions of this paper.

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