

Strengthening the rule of law in the Pacific through international crime cooperation.

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Whilst the Pacific Islands are culturally, educationally and socially diverse, there is a degree of similarity in their respective levels of governance, corruption and law enforcement capacity. The instability, corruption and lawlessness, which have at times plagued Pacific Island countries, are a clear indication of a weak rule of law.

In recent years there has been a strong focus on measures to strengthen the rule of law in the Pacific, and there have been endless projects and initiatives developed to address this goal. Given the significance of the rule of law and the myriad of initiatives to strengthen it in weakened countries, agreement about its meaning and effect is remarkably elusive.

The rule of law is rarely, if ever, a discrete legal principle in its own right; but rather is an approach to governance on which the efficacy of law, and constitutionalism, rest. At the most basic level it can be said that there are three core principles to the rule of law. First, the population must be governed by general rules that are laid down in advance. Second, these rules must be applied and enforced, and third, disputes about the rules must be resolved effectively and fairly.¹

Efforts to strengthen the rule of law in the Pacific could be more successful if they focused on the specific difficulties experienced by Pacific Island countries rather than the overarching, rather abstract goal of strengthening the rule of law. This paper will consider the prevalence of transnational crime in the Pacific and how measures to combat this threat through international crime cooperation can strengthen the rule of law in the Pacific.

The paper will begin by considering exactly what is meant by the term ‘transnational crime’ and the relationship between transnational crime and the rule of law. The paper then provides an overview of the Pacific region, and some explanation as to why Australia is concerned about the current situation in the Pacific. It will consider the prevalence of transnational crime in the Pacific, regional efforts to combat this threat and why such efforts may not be effective. It then outlines the benefits of using international crime cooperation to combat transnational crime and provides a case study of the Australian Federal Police Law Enforcement Cooperation Program in the Pacific. Finally the paper outlines the positive effect that international crime cooperation can have on strengthening the rule of law in the Pacific.

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¹ C Saunders, L Le Roy (eds), *The Rule of Law*, Federation Press 2003 at 5

What is transnational crime?

‘Transnational crime’ generally refers to any crime that crosses international borders, for example, through the occurrence of criminal activity in more than one jurisdiction or because the proceeds of the crime have moved from one jurisdiction to another.² Money laundering, illegal immigration, arms smuggling, drug trafficking, people trafficking and of course, terrorism are the most widely referred to examples of transnational crime. However, there are many more examples including, pirating or theft of intellectual property, digital child pornography, cyber crime and fraud. This list will continue to grow as criminals find new ways to exploit all the opportunities which globalisation and technological advancement provide.³

Transnational crime is by no means a new phenomenon; however with globalisation and greater mobility of people and resources across national borders, it has become increasingly pervasive, diversified and organised.⁴ Transnational crime is now recognised as a national security concern with the capacity to weaken the rule of law and undermine the stability and security of individual states as well as the stability of political and economic relationships between states.⁵

Quite apart from the threat posed by transnational crime itself, the prevalence of transnational crime also increases the risk of other threats. Terrorists use transnational crime groups to move money, men and material around the globe. Governments and rebels sell natural resources through transnational crime groups to finance wars. Of particular relevance is that the prevalence of transnational crime and related corruption weakens a States’ capacity to maintain or establish the rule of law.⁶

Transnational crime has become a defining problem of the twenty first century because of the enormous discrepancies between developing and developed countries; the presence of many weak states in which transnational crime groups can operate; and an international demand for the goods and services which these groups provide. As strategies are developed to counter the threat of transnational crime, it is imperative that the fight be based not just on attacking the most visible manifestation of the problem but the larger conditions which allow these groups to operate. This will require more attention to the problem of states with a weak rule of law, lack of harmonisation in regulation and the failure to have effective law enforcement cooperation across borders.⁷

² H Morais, *Fighting International Crime and its Financing: The Importance of Following a Coherent Global Strategy based on the Rule of Law* 50 *Villanova Law Review* 583 at 584

³ C. Goodman & V. Bickford, *Issues in Transnational Crime in the South Pacific*, Paper presented at the 14th Annual Australia New Zealand Society of International Law Conference, at Wellington, 29 June 2006.

⁴ *ASEAN Plan of Action to Combat Transnational Crime* at <http://www.aseansec.org/16134.htm>

⁵ Federal Agent Andy Hughes, *Liaison Officers play a major role in Australia’s fight against transnational crime*, (86) *AFP News* June 1999 at 10

⁶ Report of the Secretary-General’s High-level Panel on Threats, *Challenges and Change, A more secure world: Our shared responsibility*, 2004 at 4

⁷ L Shelley, *The Nexus of Organised International Criminals and Terrorism*, available at <http://american-university.com/academic.depts/acainst/transcrime/resources/publications/shelle51.pdf>

The relationship between the rule of law and transnational crime

The rule of law as demonstrated through law enforcement, good political governance and an effective legal system has been identified as necessary for security, social stability, sustainable development and economic growth. Both the World Bank and the Organisation for Economic Cooperation and Development identify the rule of law as one of the major components of the good governance promoted by them as essential for development.⁸ An effective rule of law then underpins and enables security, social stability, sustainable development and economic growth.

The absence of good governance and a weakened rule of law provide the environment in which transnational crime can thrive. 'Relative immunity' from law enforcement in states with a weak rule of law makes them attractive to criminals to use as bases for provision of illicit goods and services to areas where the risks are higher. Governments in such states may also prove unwilling rather than unable to suppress these activities because they fear the disruptive effects of suppression, a major concern in countries already suffering from political and social unrest, or because they benefit from the criminal activity through corruption or bribery.⁹ At the same time transnational crime can lead to instability, lawlessness and corruption and has the capacity to weaken the rule of law further.

A weak rule of law is both a precursor to and a symptom of transnational crime.¹⁰ People involved in transnational crime are attracted to countries with a weak rule of law and the social and economic consequences of a weak rule of law allow transnational crime to prosper. At the same time the population of a country struggling with a weak rule of law often become disaffected and can turn to transnational crime, in an attempt to express this discontent and to make economic gains not otherwise available to them.

Internal threats to human security in the Pacific, as elsewhere, foster an environment conducive to threats from external sources. So, while transnational crime, border security and terrorism are critical issues, they are fostered by other domestic factors such as a weak rule of law, lack of good governance, slow economic growth, social tension, land issues, poverty, environmental degradation and access to basic social services.

Combating transnational crime has a direct impact on strengthening the rule of law. At the same time, transnational crime cannot be combated by law enforcement means alone. An environment has to be created in which the social, political and justice systems can function properly, with the right powers, restraints and checks and balances to enable the

⁸ Saunders, Le Roy, see n1 at 2

⁹ P. Williams and E.U. Savona, 'Problems and dangers posed by organised transnational crime in the various regions of the world' in Williams and Savona (eds.), *The United Nations and Transnational Crime* (Frank Cass London; 1996) at 38.

¹⁰ Commissioner Mick Keelty APM, *Speech given at the Australian Centre for Peace and Conflict Studies, University of Queensland, 1 April 2005*

community to have confidence and business to thrive.¹¹ There must be an appreciation of the comprehensive nature of threats and the interrelationship between a weak rule of law and external threats, such as transnational crime.

Strengthening the rule of law not only ensures good governance, which reduces opportunities for transnational crime, but also strengthens states' law enforcement capacity to combat transnational crime. The development of effective law enforcement and criminal justice infrastructure must be achieved within the broader context of continued improvements in economic, social and governance issues.¹² Therefore, measures to strengthen the rule of law are key components of an effort to combat transnational crime and vice versa

The Pacific Region

The Pacific is an incredibly diverse region, comprising 14 countries, namely, Cook Islands, the Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Palau, Papua New Guinea, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. The Pacific Island countries are geographically isolated and sparsely populated; they cover more than 30 million square kilometres, but occupy less than two percent of that area. Each of these countries has its own political, economic and social structures, often incorporating different languages, beliefs, values and practice, as well as different levels of wealth and development. Twenty percent of the world's languages and cultures exist in the Pacific Islands, but only one per cent of the world's population.¹³

Despite the cultural diversity in the region most Pacific Island countries are struggling with instability, corruption, lawlessness and transnational crime, all of which provide a clear indication of a weak rule of law. Civil conflict has continued to impact severely on the stability of Papua New Guinea and the Solomon Islands; and Fiji has been subject to a number of coups, most recently in December 2006.¹⁴ Tonga experienced destructive riots in late 2006, Vanuatu has been subject to instability within the Police Force and the Nauru government has suffered significant instability due to discontent over poor financial management. Civil unrest can be triggered by poor governance, flawed political systems, poor leadership, unequal access to political processes and a lack of democratic participation. This situation is exacerbated in societies in a transition from traditional to modern systems of organisation and governance, and in which the benefits of development are shared unequally.¹⁵

¹¹ Ibid.

¹² R McCusker, *Transnational crime in the Pacific Islands: real or apparent Danger?* Australian Institute of Criminology, March 2006 at 1

¹³ Senate Foreign Affairs, Defence and Trade Committee, *A Pacific Engaged: Australia's relations with PNG and the island states of the southwest Pacific*, August 2003, Committee Hansard, 18 October 2002, at 19 (McCall).

¹⁴ Senate Foreign Affairs, Defence and Trade Committee, *A Pacific Engaged: Australia's relations with PNG and the island states of the southwest Pacific*, August 2003 at 173

¹⁵ Id at 176

Why is Australia concerned about the Pacific Region?

The Pacific has long been considered vital to Australia's security.¹⁶ For Australia, the proximity of the troubled Pacific Island nations to its own shores means that it has a vested interest in helping to maintain security in the region; and to become increasingly engaged.¹⁷

The dangers of a weakened or collapsed state as a base for criminal or political groups which could pose a threat to Australia are significant, especially when those groups are able to hide behind the legal sovereignty of a local government dependant upon their goodwill.¹⁸ In today's globalised world, a threat to one is a threat to all. The erosion of State capacity or the rule of law anywhere in the world weakens the protection of every State against threats such as, transnational crime. Every State requires international cooperation to make it secure.¹⁹ Thus the protection of vulnerable nations within our own region in particular is a major priority for Australia. It is imperative for Australia to remain closely engaged concerning issues of governance, law and order and stability throughout the Pacific region.

The situation in the Pacific also directly impacts on Australia's own ability to combat transnational crime. At an operational level, external operations have highlighted for the Australian Federal Police (AFP) the difficulty of staging off-shore operations to combat transnational crime in Pacific Island countries, where the regimes are weak and the law enforcement resources poorly developed. Not only are such activities costly in resource terms to Australia, but technical and legal difficulties are also evident. For example, extradition to Australia is extremely difficult in situations in which the legal and technical framework in the external country concerned does not support the kinds of forensic demands made in Australia. Joint operations are also difficult where there is a substantial technological and training gap between Australian law enforcement and police in the Pacific. There can also be problems with maintaining confidentiality of operations in very small communities.²⁰

The prevalence of transnational crime in the Pacific

Transnational crime has had a steadily increasing impact on Pacific Island countries over the last 25 years. The Pacific is known as a major production and distribution hub for illicit drugs and has been chosen as a base by many transnational crime groups, including

¹⁶ S Kikkert, A South Pacific Police Force? 8(2) *Journal of South Pacific Law* 2004, 1

¹⁷ C Richter, Security Cooperation in the South Pacific: Building on the Biketawa, 8(2) *Journal of South Pacific Law* 2004, 1 at 2

¹⁸ M O'Connor, Australia and the Arc of Instability, 50(11) *Quadrant* November 2006, 8 at 12

¹⁹ Report of the Secretary-General's High-level Panel on Threats, see n6 at 1

²⁰ M Keelty, Transnational crime, police peace operations and Asia-Pacific Security, (70) *Platypus* March 2001, 16 at 19

terrorist organisations. There is strong evidence of extensive money laundering within the region, corruption is manifest, small arms have proliferated, the region is being used as a transit zone for both human trafficking and people smuggling, and identity document fraud compounds the problem.²¹ However, the transnational criminal activity that has manifested itself in the region has largely been directed at supplying markets elsewhere and has been planned and financed from elsewhere.

The following examples provide an indication of the extent of transnational crime in the Pacific. In October 2000, 350 kilograms of heroin, intended to supply the Australian, North American and Canadian markets was seized in Fiji. In the same year an Asian crime syndicate attempted to transfer a massive 1.2 tonnes of amphetamine precursors to another unknown destination. In 2001, 90 kilograms of cocaine which transited the Pacific by way of a small pleasure craft from South America was seized and in Tonga 100 kilograms of cocaine was seized.

In April 2003, the Secretary-General of the Pacific Islands Forum revealed a ‘frightening increase in the movement of small arms in the Pacific’, which he saw as the cause of ‘destabilisation’ in some countries and areas in the region.²² There has also been a trend for some Pacific governments to seek alternative sources of revenue through questionable activities, such as the sale of passports, flags of convenience and money laundering, all of which are potentially quite destabilising.²³

The threat of transnational crime has been exacerbated by both the region’s porous borders and the inability of governments to control them, as well as the susceptibility of these economically weakened states to well-funded criminal or terrorist organisations.²⁴ At a more basic level law enforcement agencies in the region lack the necessary infrastructure, equipment, resources and legal framework with which they could successfully counteract transnational crime.²⁵ Law enforcement agencies in various Pacific Island countries have been unable to prevent breakdowns in law and order and in some cases have been entirely ineffective in dealing with the public disorder which impacts politically, socially and economically on their communities and has allowed transnational crime to gain a stronger foothold within the Pacific Islands.

Regional efforts to combat transnational crime

The Pacific Islands Forum (the Forum) was founded in August 1971 and comprises the 14 independent and self-governing states in the Pacific, along with Australia and

²¹ N. Boister, *Regional Cooperation in the Suppression of Transnational Crime in the South Pacific: Threat Assessment by the Pacific Forum*, Paper presented at the 12th Annual Australia New Zealand Society of International Law Conference, 18-21 July 2004, Canberra.

²² Senate Foreign Affairs, Defence and Trade Committee, see n14, Submission 66, at 23

²³ Senate Foreign Affairs, Defence and Trade Committee, see n14 at 177

²⁴ Richter, see n17 at 2

²⁵ J Broome, *Transnational Crime in the Twenty-First Century*, Paper presented at the Transnational Crime Conference convened by the Australian Institute of Criminology in association with the Australian Federal Police and Australian Customs Service and held in Canberra, 9-10 March 2000.

New Zealand. The Forum is established by a treaty between its members as the region's premier political and economic policy organisation. Forum Leaders meet annually to develop collective responses to regional issues.

The Forum's first response to the threat of transnational crime, and perceptions of the growth of transnational economic and drug offences in the region, was to adopt the *1992 Honiara Declaration on Law Enforcement Cooperation*, which provides for regional cooperation in the suppression of transnational crime in the Pacific. The declaration identified priorities and established a framework within which to pursue further cooperation.²⁶

Forum leaders set out the rationale for the declaration in its opening paragraphs:

An adverse law enforcement environment could threaten the sovereignty, security and economic integrity of Forum members and jeopardise economic and social development. The threats to the stability of the region are complex and sophisticated, and the potential impact of transnational crime is a matter of increasing concern to regional states and enforcement agencies. The Forum agreed that there is a need for a more comprehensive, integrated and collaborative approach to counter these threats.²⁷

The 1992 Honiara Declaration was a major achievement for the Pacific in the fight to combat transnational crime. However, the implementation of the Honiara Declaration has been and remains a source of concern to the Forum. Although technical assistance has been given particularly in the drawing up and adaptation of model legislation to local conditions, Pacific Island countries face a general problem of law reform.

Poor coordination and communication between officials and the high implementation costs and low law enforcement capacity compound the problems of implementation.²⁸ Even if enacted and applied no provision has been made for actually monitoring the effectiveness of this legislation in the suppression of transnational crime.

In 2001, the Forum recognised that the potential threat of transnational crime in the Pacific had been realised. The Forum stated that there was 'clear evidence of serious transnational crime moving into the region and posing serious threats to the sovereignty, security and economic integrity of forum members.'²⁹ The Forum indicated that these threats included money laundering, terrorist recruitment, identity fraud, West African fraud, people smuggling, issuing passports of convenience, engaging in electronic crimes, small arms trafficking and organised crime.

²⁶ Boister, see n21

²⁷ *Declaration by the South Pacific Forum on Law Enforcement Cooperation*, Annex to the Forum Communiqué from the 23rd South Pacific Forum, Honiara, Solomon Islands, 8-9 July 1992, see the website of the Pacific Islands Forum Secretariat www.forumsec.org/fj for a copy of the Declaration.

²⁸ N Boister, *New Directions for Regional Cooperation in the Suppression of Transnational Crime in the South Pacific* 9(2) *Journal of South Pacific Law* 2005, 1at 2

²⁹ Id at 1

The 2002 *Nasanini Declaration* by the Pacific Islands Forum draws upon the Honiara Declaration and updates it to address potential terrorist activities in the region. It also refers to the Security Council Resolution 1373 on the financing of international terrorism and the eight special recommendations of the Financial Action Task Force on money laundering.³⁰

Whilst for many years there has been hundreds of thousands of dollars invested into law enforcement training and development activity in the Pacific, there has been little relative improvement in law enforcement outcomes, procedures or effectiveness. This failure to translate training outputs and investment into improved law enforcement practices and efficiency can be seen as a result of under-appreciation of localised factors impacting on law enforcement (most significantly the culture of those leading and working in law enforcement agencies, and a chronic under-resourcing creating an inability within agencies to support and maintain procedures, skills and systems suggested by training projects), and a lack of coordination by donors, aid agencies and training providers.³¹

The last five years have seen the implementation of several key multi-national coordinated law enforcement activities and developments which focus on international crime cooperation and have more effectively challenged crime and lawlessness in the Pacific on a number of levels. These developments have indicated a greater determination and stronger links and relationships between regional and international law enforcement agencies and an ability and willingness amongst law enforcement agencies to unite and confront the challenges posed by transnational crime.³² However, the struggle to combat transnational crime is onerous; it requires sustained political will and bureaucratic commitment. The fight against transnational crime in the Pacific is hampered by continuing instability and a low level of law enforcement capacity across the region.³³

International crime cooperation as the most effective means of combating transnational crime

One of that major difficulties involved with transnational crime is the gap between the reach of predominantly State-based law enforcement agencies and the global reach of transnational crime groups.³⁴ The simple fact is that, nowadays, crime knows no borders while police forces have to recognise their territorial limitations.³⁵ In most circumstances, the capacity of a state to intervene operationally against transnational

³⁰ Senate Foreign Affairs, Defence and Trade Committee, see n14 at 191

³¹ Pacific Islands Forum, *Pacific Plan: Law Enforcement*, see www.pacificplan.org/tiki-download_file.php?fileId=12 at 278

³² Id. At 277

³³ Senate Foreign Affairs, Defence and Trade Committee, see n14 at 194

³⁴ Hughes, see n5 at 10

³⁵ Robert Cornall, Australia's Response to Transnational Crime in the Region, (4) *Public Administration Today* October 2005, 61 at 62

crime is limited to its own jurisdiction; nevertheless there are a number of strategies which can be employed at the national and regional levels to deal with this threat. International crime cooperation is the most effective means by which to overcome the obstacles presented by these territorial limitations. The basic investigative tools apply transnationally, as they do nationally, but the emphasis is on sound liaison relationships, good information and intelligence exchanges, a sound understanding of the law enforcement systems in place in the other jurisdictions, a preparedness to consider mutual support and/or joint operational approaches and professional trust.³⁶

Weak and vulnerable states, which do not have sufficient capacity themselves, are able to combat transnational crime more effectively through international crime cooperation. International crime cooperation can also provide countries with the resources necessary to initiate transnational crime programs and to develop the necessary political will and mechanisms. International crime cooperation can be bilateral in the form of assistance by international organisations or multilateral in the form of regional cooperation among neighbouring countries.³⁷

International crime cooperation also allows operational links and collaboration to extend beyond Pacific Island Forum countries, and provides Pacific Island countries with access to external sources of information and intelligence. Combating transnational crime requires concerted action at all levels, international crime cooperation is essential, complemented by collaborative ties at the regional and sub-regional levels. This assistance will be all the more effective if it is given in a full understanding of broader security concerns, including a weakened rule of law.

Case Study: Australian Federal Police Law Enforcement Cooperation Program

The AFP provides a range of functions including operation training and logistics support to bolster the capability of overseas policing counterparts. It also works to enhance coordination of intelligence and information exchange with law enforcement partners. The AFP through its Law Enforcement Cooperation Program has established the Pacific Transnational Crime Network to combat transnational crime in the Pacific region.³⁸

Since 2002, Transnational Crime Units (TCUs) have been established in Fiji, Samoa, Tonga, Vanuatu and Papua New Guinea. The TCUs were established in partnership and with the support and agreement of the governments, Police Commissioners and other key law enforcement agencies of participating countries. The initiative was also supported by the Pacific Islands Chief of Police. The TCUs provide a proactive, transnational crime intelligence and investigations capacity in each of the participating countries. Dedicated

³⁶ J McFarlane, 'Transnational crime, corruption, crony capitalism and nepotism in the twenty-first century' in P Larmour & N Wolanin (eds) *Corruption & Anti Corruption*, Asia Pacific Press 2001, at 142

³⁷ Asian Development Bank & Organisation for Economic Cooperation and Development, *Progress in the Fight Against Corruption in Asia and the Pacific*, 2001 at 243

³⁸ See <http://www.afp.gov.au/international/liaison/LECP/achievements>

teams of Police, Customs, and other law enforcement and border protection agencies work closely to proactively develop intelligence and initiate investigations into transnational crime threats.³⁹

The primary functions of the TCUs include collection, collation, analysis and dissemination of tactical intelligence, target development, management of issue specific investigations and establishment of in-country networks in support of their activities. Each TCU has a secure database, secure email system for communications across the network and with all other Pacific Island countries and each team maintains a surveillance and intelligence capability.⁴⁰

The AFP has developed extensive training development programs which run parallel to the TCU program and have included intelligence, surveillance, operational security and attendance of TCU members on the National Strategic Intelligence Course, Major Investigations Management Workshops, Online Child Sex Exploitation Team training and drug investigations programs. Importantly, the TCU network and the AFP have been able to utilise key relationships with the Drug Enforcement Administration, the Pacific Islands Forum and Interpol to enhance training and capacity development opportunities.⁴¹

Following the establishment of the TCUs in each country as operational teams, the next stage in the development of the network was the establishment of the Pacific Transnational Crime Coordination Centre (PTCCC) in Fiji in May 2004. The PTCCC provides a gateway into the network for other law enforcement agencies by acting as a regional one-stop-shop for all law enforcement enquiries. The PTCCC coordinates the flow of information between the TCUs and foreign law enforcement agencies. Its major functions are to coordinate the collection, collation and dissemination of intelligence throughout the Pacific Region from Pacific Law Enforcement Agencies and to provide intelligence support to other law enforcement agencies.⁴²

Links to other law enforcement agencies around the world are further enhanced by the presence of Interpol within the PTCCC and access to the AFP International Network in 27 countries across the world. These links provide the TCU network and Pacific Island countries with the unique ability to access law enforcement information and have enquiries undertaken on their behalf in a practical and simplified manner.⁴³

The centre also provides capacity building and progressional development for Pacific Regional law enforcement agencies and provides the opportunity for law enforcement officers from each of the Pacific Islands countries to undertake short and long term attachments to work in the centre. In line with its core functions, the PTCCC is staffed by Pacific Law Enforcement Agencies.⁴⁴

³⁹ A New Network in the Pacific, *Platypus*, December 2005 at 5

⁴⁰ *Ibid.*

⁴¹ *Id.* at 6

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ *Ibid.*

The AFP has also established the position of a Law Enforcement Training Coordination Officer in the Pacific Islands Forum Secretariat in Fiji to:

- Coordinate law enforcement training throughout the region
- Introduce a law enforcement training package that is certified and accredited by key stakeholders such as the University of the South Pacific and is of particular relevance to the Pacific region, and
- Raise the training capacity within the region by the qualification of Pacific law enforcement training personnel.

One of the major achievements of the Transnational Crime Network in the Pacific was the investigation by the Fiji Transnational Crime Unit which led to the seizure of precursor chemicals, with a potential to produce up to 1000kg of crystal methamphetamines on 9 June 2004. Other significant achievements include, arrests and seizures related to illegal fishing, drug trafficking, arms smuggling, fraud and dealing with false passports, recommendation to government on legislative changes, recovery of significant unpaid duties after seizures of undeclared goods and the deportation of figures involved in criminal activities in Fiji, Papua New Guinea and Vanuatu.⁴⁵

How international crime cooperation strengthens the rule of law

Transnational crime in itself can make it difficult for a country to strengthen its rule of law. However, measures to deal with transnational crime, in particular international crime cooperation initiatives can greatly strengthen the rule of law in weakened states.

Whilst the threats to the stability of Pacific Island countries are complex and sophisticated reducing the destabilising impact of the threat of transnational crime allows the State to focus on other domestic issues. This allows the State more capacity to exercise their sovereign responsibility and strengthen the rule of law. By taking steps to combat transnational crime through international crime cooperation, a State is able to increase its law enforcement capacity and develop the tools and resources to deal more effectively with other domestic threats, including corruption, domestic crime and general lawlessness.

International crime cooperation allows Pacific Island countries to engage more directly in the international community. They are able to work with other countries and see first hand the direct benefits of a strong rule of law, for example, more efficient government administration, and greater accountability and transparency, which again increases demand for a strengthened rule of law. It also becomes apparent that the Pacific Island countries may have greater access to international crime cooperation if the rule of law was strengthened. Many countries will not provide international crime cooperation where there are concerns that the criminal justice system of the other country does not

⁴⁵ Id. at 7

guarantee procedural fairness, or the legal and technical framework does not support the forensic demands of the other country, or if the prison conditions do not meet certain human rights standards. This again creates strong internal demand for measures to promote good governance and a strong rule of law.

States in the Pacific are already expressing demand for and an interest in international crime cooperation. They recognise the prevalence of transnational crime in the Pacific region and the threat that this poses to their societies. The Pacific Island countries want to work as part of the wider international community to combat this universal threat. So there is a strong demand for initiatives that enable Pacific Island countries to develop their capacity for international crime cooperation. Aid generally, and capacity building in particular works best where there is internal demand for such assistance and a recognition of the issues at a domestic level. This demand indicates that international crime cooperation initiatives are likely to be successful in the region. These initiatives and their outcomes can then create demand and political will for broader measures to strengthen the rule of law, which will in turn increase the effectiveness of such programs and have a beneficial impact on the rule of law.

The process to strengthen the rule of law is a long and ongoing process which offers few concrete achievements or milestones in the short term. International crime cooperation on the other hand often provides tangible results both in the short term and the long term, for example, the seizure of drugs and proceeds of crime. Events such as these are widely reported and have a major impact on maintaining the political will and motivation for longer term measures to strengthen the rule of law.

Conclusion

The rule of law is an abstract concept and measures to strengthen the rule of law can often be aspirational and too broad to have any concrete impact. The specific problems faced by countries with a weak rule of law must be looked at and dealt with individually. Measures developed to deal with a specific issue will be more effective than those with a broad focus. The success of these measures will have flow on effects which further strengthen the rule of law. This is demonstrated in the case of efforts to combat transnational crime in the Pacific through international crime cooperation.

International crime cooperation is the most effective means of combating transnational crime and any reduction in transnational crime in the Pacific will have a direct impact on the rule of law. However, international crime cooperation also has flow on effects which develop political will and demand for other measures to further strengthen the rule of law.