

Opening Address by the Hon Chief Justice at the Transnational Organized Crime Conference

Commissioner, Ladies and Gentlemen,

It is a great pleasure for me to be with you this morning to give the opening address at a conference of such importance to the international rule of law. To overseas delegates, I would like to extend a warm welcome to Hong Kong.

Only a few generations ago, for the great majority of us, seeing the smoke rise from the chimneys of the neighbouring village marked the limits of our world. Today, however, sitting at our computers, we are linked in a matter of moments to the rest of the globe. The rapid advances in science and technology, the increasingly free exchange of ideas between societies and the dynamic growth in international trade have brought all of us closer together. We talk today - without poetic licence - of living in a 'global village'.

These advances have brought great benefits to the world community, benefits secured by good-will and tolerance between jurisdictions and the recognition of the critical role that the rule of law has to play not only in domestic but also in international affairs. Regrettably, however - but perhaps inevitably - these advances have also given rise to new threats.

Criminal groups - increasingly linked across territorial borders - have embraced today's globalized economy and the technological advances that go with it. They have learned to exploit the differences in the laws of one jurisdiction and another. Legitimate freedoms offered by increasingly open borders and accessible markets are distorted by them to further their illegal enterprises. In the result, transnational organized crime today presents a global challenge, one that can only be successfully met with a global response.

The deliberations at this conference will be of the greatest importance. For this conference will look specifically to continuing the critically important task of forging a global alliance of policy makers and law enforcement agencies which, through co-ordinated use of international agreements - both bi-lateral and multi-lateral - and close co-ordination between agencies, aims to eliminate the threat posed by transnational organized crime.

Hong Kong is privileged to be hosting a conference dedicated to such a purpose and Hong Kong, in my view, is an entirely appropriate venue for it. Remember that Hong Kong was created for reasons of international trade. It is today a leading financial centre. Its harbour is one of the busiest in the world. It is a vibrant city renowned for its energy and entrepreneurial spirit.

It is for these very reasons, however, that Hong Kong is so vulnerable to the threat of transnational organized crime and why it must so actively commit itself to combating that threat in all its manifestations. The hosting of this conference is an expression of that commitment. It is also an indication - if one were needed - that Hong Kong intends to remain a responsible partner in the global alliance of which I have spoken.

Organized criminal activities of the kind that this conference will consider may pay little heed to territorial boundaries. Their detrimental effect, however, is experienced all too keenly in each jurisdiction touched by them. In seeking to protect the world community, therefore, each jurisdiction is protecting itself. In this context, the concept of territorial sovereignty is not at odds with the concept of universal collaboration under the international rule of law. They are complimentary to each other.

It would be wrong, of course, to underestimate the threat posed to the world community.

There is no need for me to spell out the terrible effects that the international narcotics trade has on the societies affected by it nor the tragic consequences of the reprehensible trade in human beings, particularly women and children, whether for sexual exploitation or otherwise.

But the effect of dispersing the profits obtained from these activities - and here I speak of money laundering - while perhaps less dramatic in terms of human degradation, may nevertheless be equally profound. Evidence shows that, unless checked, large in-flows of illicit funds into a jurisdiction, invariably erratic and channelled towards high risk investments, not only distorts the financial markets of that jurisdiction but undermines stable and sustained economic growth. To protect bad moneys held within those markets, corruption increases. Unchecked, large in-flows of illegal funds destroy the reputation of financial markets. The result is predictable. Bona fide investors shy away and look elsewhere.

A new and ominous threat, one as yet not always fully understood, is posed by computer-related crimes.

Computer-related crimes are diverse in nature. Fundamentally, computer technology is used to commit what I may call traditional crimes but to commit them in new ways, ways that are faster and more difficult to trace and to commit them often from safe havens beyond the reach of the jurisdictions affected.

There are a number of areas in which computer-generated crimes have raised deep concerns in the international community. One example is the use of computer networks to distribute child pornography and other forms of illegal and offensive materials, materials that can be disguised by electronic encryption, and distributed around the world almost literally at the speed of light.

As financial markets increasingly employ cyberspace for the movement of funds, so the risks of using computer technology to intercept and divert transfers increases. Digital technology also lends itself to the reproduction of counterfeit documents, to copyright piracy and to a broad range of frauds.

We are all aware of what some call computer vandalism, of computer viruses - engineered invariably out of pure malice - that invade our computer systems and destroy the data stored in them. It seems that so much damage can be caused internationally with limited knowledge and so few resources. On a grander scale, when aimed at the critical infrastructure of a jurisdiction, such activities can amount to a form of terrorism.

Cyberspace does not recognize territorial boundaries. Organized criminal syndicates wishing, for example, to distribute child pornography, seek out a safe haven - a jurisdiction perhaps in which that activity is not criminal or is only loosely policed - and with the use of computer technology beam the material to a dozen or more jurisdictions where it is illegal.

Activities of this kind raise complex issues of jurisdiction and matters collateral to it. They are issues which cannot always be resolved by relying upon the strict wording of international conventions, agreements for mutual legal assistance and the like without, in addition, seeking greater harmonization of laws and more effective international co-operation.

Each jurisdiction - and quite properly so - must decide upon its own laws in the interests of its own people. The world community must - and does - recognize

that the fight against international organized crime will be self-defeating unless the freedoms guaranteed by the international rule of law are preserved. There is therefore always a balance to be maintained. Legitimate state interests must always be honoured. Nobody suggests that the forging of an effective global alliance against transnational organized crime, one based on the rule of law, is an easy task.

But recent years have witnessed impressive advances. The will to take decisive, co-ordinated action to defeat transnational organized crime is there. The presence of so many distinguished delegates at this conference is evidence of that fact. This conference, I am sure, will not only bring about greater understanding and co-operation between the many jurisdictions that are represented here but will look to bold new initiatives.

May I applaud you for your endeavours. May I also wish you an enjoyable and productive conference.

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