International Crime

Define:

Any act or omission that has international consequences on nations and their citizens, it is a crime recognized as punishable by the international community. It has to occur over more than one country or by the gov of the country

**Categories of International Crime**

1. Crimes against the international community

* Crimes committed by individuals & states which are seen as wrong by the international community (outlined in treaties or part of international customary law)
* E.g. Genocide (Rwanda), war crimes, crimes against humanity, crimes of aggression. ICC hears cases first conviction in 2012 Thomas Lubanga from Congo

1. Transnational Crime

* Are crimes that are committed in more than one country
* E.g. Drug trafficking, drug importation, people trafficking, child pornography, arms trafficking, money laundering, internet crimes, terrorism

Cases:

* The law is a federal law under the COMMONWEALTH CRIMINAL CODE… enforced by AUS Fed Police
* A HUMAN TRAFFICKING case – R v Dobie (2009) a QLD hairdresser 5 years prison
* SLAVERY – R v Weitang (2008) 10 years prison – first slavery conviction in AUS
* BROTHEL – R v Chee Mei Wong (2013) – North Shore brothel case
* DRUG TRAFFICKING – R v Victor Twartz (2015) 91 year old on trial for drug trafficking in the District Court

**Dealing with International Crime**

**DOMESTIC MEASURES – what do we do in Australia?**

1. Have signed international agreements about…
   1. Crimes against the international community
      1. E.g. Ratified the Rome Statute which established the ICC
      2. International Criminal Court Act 2002 (Cth) ratified the Rome Statute to show that AUS intends to be part of the ICC 🡪 therefore completely binding
   2. Extradition treaties – (to send criminals back to be prosecuted)
      1. Implementation of extradition treaties as per Extradition Act 1998 with 130 countries & AUS will also MUTUAL ASSIST in assisting crimes
      2. E.g. Collar bomb hoax, PETERS was extradited from USA Julian Assange WikiLeaks founder, an AUS national, sought political asylum at the Eucador embassy in June 2012 to avoid extradition to Sweden
      3. Under AUS law a person cannot be extradited if there is a chance they would face the death penalty. Hence, why Gabe Watson was not extradited to USA until death penalty was not an issue
      4. Paul Peters strapped bomb to girls neck 🡪 fled to USA 🡪 extradited to AUS
2. Domestic criminal laws enforced by courts

E.g. Under the criminal code cth

R v Wei Tang 2008, 10 years for slavery 🡪 1st slaves conviction in AUS

HUMAN TRAFFICKING – R v Dobie (2009) a QLD hairdresser 5 years prison

Awaiting on trial at Downing Centre District Court: 91 year old man convicted of drug trafficking – 2016

* Attempts to tackle issues of state sovereignty include the Fed gov’s child sex tourism legislation Crimes (Child Sex Tourism) Amendment Act 1994 (Cth) which gives jurisdiction to AUS courts to prosecute offenders who commit sex offences overseas
* 1st prosecution: R v Carr 1996 sentenced 7 years for a sexual offence of a child in the Philipines

1. AUS Fed Police combats transnational crimes

**INTERNATIONAL MEASURES – Limitations**

* Enforcement an issue due to state sovereignty
* Presents problems
* Ease of travel b/w nations
* Technological developments
* Slow, expensive
* No international police force to arrest people for committing international crimes

1. Tribunals

* Tribunals before ICC was established

International Criminal Tribunal for the former Yugoslavia 🡪 Est. by UN Security Council

Big case = SLOBODAN MILOSEVIC who was arrested for war crimes & crimes against humanity in 2001

Trial 2002

Died before end of trial 2006

Limitations: not very effective, took too long, witnesses etc.

International Criminal Tribunal for Rwanda 🡪 Est. in 1994 by UN Security Council Genocide committed in Rwanda in 1994

Ad Hoc – temporary

1. International Criminal Court (ICC)

* Permanent 🡪 Netherlands in the Hague
* Set up by a Multilateral treaty Rome Statute in 1998 to start opening in 2002
* Has jurisdiction over THREE categories of crime
  + Genocide
  + Crimes against humanity
  + War crimes
* How it operates?
* A court of last resort – intended to complement, rather than exclude, existing national criminal justice systems
* It can only prosecute a case when state courts cannot or are not willing to do so
* This means that the main responsibility for investigating & prosecuting these crimes still lies with the member states

The ICC can only exercise jurisdiction where:

* The accused is a national of a member state of the treaty
* The alleged crime occurred in the territory of a member state, or
* The situation is referred to the ICC by the UN Security Council
* Where the ICC convicts an individual, it can impose a sentence of imprisonment up to life imprisonment (but not the death penalty), which will be served in a state prison designated by the court
* In addition to imprisonment, the court can order a fine or forfeiture of assets

EFFECTIVE:

Victims: - series of rights granted to victims

* 1st time in history of international crime justice, victims have a possibility under statute to present their views & observations before the court – where appropriate, some form of reparation (compensation) will be granted for their suffering
* Blance b/w retributive & restorative justice that will enable the ICC to not only bring criminals to justice but also help the victims themselves rebuild their lives
* One court, permanent – this is symbolically powerful
* Thomas Lubanga 2012 from Congo, 1st case found guilty for conscripting & enlisting child soldiers

However, long trial, expensive

INEFFECTIVE:

* Media 2014: “12 years, $1 billion, 2 convictions”
* ICC is reactive – respond to crimes as they occur
* AUS signed not USA
* Arrest warrant out for Kony – court lacks diplomatic support including enforcement of its arrest warrants
* USA + China have not signed Rome Statute

1. Interpol set up to deal with Transnational crimes, worlds largest police organization

* Allows foreign enforcement authorities to work together – share & access information
* Updating databases contain information including notices of wanted individuals
* Limitation forbids organization from becoming involved in political, military, religious, & racial activities
* People who work for Interpol cant conduct investigations or make arrests

EFFECTIVE:

* Steven Freeland wrote a paper called Effectiveness of International Criminal Justice
* Focus on crimes against humanity & effectiveness of ad hoc tribunals & the ICC when dealing with these crimes
* International Criminal Law isn’t going to stop these crimes 🡪 but will PUNISH those who commit them

INEFFECTIVE:

* Still crimes against humanity going on in the world (Syria)
* Most current conflicts are internal… International law is weak due to state sovereignty