

Rudd must not retreat from our war criminals

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The Sydney Morning Herald
11 February 2009
P. 15

The Federal Court ruled last Tuesday that the accused war criminal Dragan Vasiljkovic, aka "Captain Dragan" - or Daniel Snedden, as he is known in Perth - could be extradited to Croatia.

Under Australia's cumbersome extradition system he still has further avenues for appeal.

However, it does bring Australia one step closer to taking its first successful action to extradite a suspected war criminal. This failure and the Vasiljkovic case in general also raises the issue of Australia's curious inaction about suspected war criminals living here.

Australia draws an odd distinction between suspected war criminals living outside Australia and those living within our borders. Australia is wholehearted in its effort to bring external war criminals to justice.

Despite resistance in some quarters, we became a member of the International Criminal Court in 2002 and last year we gave \$15 million to various international criminal courts and tribunals.

For suspected war criminals living in Australia, our approach is far more apathetic: for a long time now we have risked looking like a safe haven. However, the Labor Government came to office promising change.

It pledged to close the loopholes in war crimes legislation and "review investigatory resources to ensure that any perpetrators found in Australia can be brought to justice". Rudd makes much of carrying out his campaign promises. It's time he made a start on this one.

So, what's wrong with our current approach to suspected war criminals living in Australia?

Let's start with the Vasiljkovic case. He deserves a fair trial and the legal protection afforded to every other Australian (he is a citizen), but his case demonstrates that even high-profile suspects are living here. Vasiljkovic was a key prosecution witness in the trial of Slobodan Milosevic before he allegedly changed his account. He was recently explicitly named in a judgment resulting from a trial in the International Criminal Tribunal for the former Yugoslavia as a fellow participant in a joint criminal enterprise, along with notorious accused war criminals Radovan Karadzic, Milosevic and Ratko Mladic. Until he was arrested in 2006, after Croatia requested his extradition, he was living freely in Australia.

A newspaper disclosed Vasiljkovic's presence, which might seem surprising until you look at the resources Australia has in place to confront its domestic population of suspected war criminals.

Australia's record on dealing with war criminals is less than exemplary. We conducted military war crimes trials after World War II (which resulted in 137 executions) but it was not until the mid-1980s that a brief attempt was made to bring Nazi suspects in Australia to justice. Charges were brought against three people: no convictions resulted.

Most WWII suspects are now dead: modern war criminals from conflicts across the globe are now a far more pressing problem for Australia.

Since the war crimes unit was shut down in 1992, Australia has adopted a "no policy" approach to accused war criminals. Prosecutions are theoretically still possible, but no dedicated resources are allocated to conducting investigations. Other remedies are available - such as citizenship revocation - but this has never been used for a suspected war criminal.

This see-no-evil approach comes at a time when other countries are dramatically stepping up their efforts. The US, Canada, Belgium, the Netherlands, Denmark, Norway and Sweden now all have dedicated war crimes units - many of them established recently. These national efforts recognise the fact that no matter how good border screening is, suspected war criminals are going to slip through the net and individual national efforts are essential to ending impunity for war crimes.

Australia began border screening for suspected war criminals in 2002-03. That was a good start, but it now needs to catch up. The first step in meeting the Government's election promise will be to create a small, dedicated unit within the Australian Federal Police to allow it to conduct initial inquiries into the scale of the problem, and then investigate credible allegations.

The Government also needs to follow through with its commitment to close legislative gaps and needs to consider using the full gamut of remedies available to it, not just prosecutions.

Cost is naturally an important consideration - especially when the Commonwealth budget is under strain - but the figures are not enormous. Sweden's war crimes unit operates with an annual budget of about \$1.7 million.

Joe Ludwig put it nicely when he was the opposition justice spokesman: "It's all well and good for the minister to talk about the legislation that's in place, but what he needs to do now is direct action that will actually enforce those laws . . . we risk looking like a safe haven for war criminals."

Thankfully, his party is now in a position to do something about it.

Fergus Hanson is a research associate at the Lowy Institute and is the author of the policy brief *Confronting Reality: Responding To War Criminals Living In Australia*, released today.