

CRUISE CRIMES: ECONOMIC-LEGAL ISSUES AND CURRENT DEBATES

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Abstract

Cruise tourism is one of the sunshine sectors of international tourism and is growing rapidly in many parts of the world. It is estimated that the growth rate of cruise tourism is twice the rate of tourism overall. Notwithstanding all the positives that accompany this growth, many critics have drawn attention to the “dark side” of cruise crimes. The eco-system aboard the cruise ship offers a fertile ground for the occurrence of crimes. The present paper examines the issue of crimes onboard from multiple standpoints and suggests some remedial measures that would lead to better management of cruise crimes. A presentation of the recent initiatives by the U.S. legislative bodies aimed at containing cruise crimes is also provided.

Keywords: cruise ships; criminology aboard; cruise crime typology; crime prevention; industry initiative; legislative intervention; and USA.

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Introduction

Cruise tourism has been growing rapidly in many parts of the world since mid 1980's. Even though its relative significance in the tourism sector is still modest, the number of berths on offer has increased from a mere 45,000 in 1980 to 212,000 in January 2002, with more than a doubling of capacity in both the 1980s and 1990s (Kester, 2003). Cruise Lines International Association (2008) estimates that over 34 million Americans intend to cruise in the near future. Demand and supply are still relatively concentrated in North America, with the Caribbean as the most important destination. According to, Sectur, the Mexican tourism ministry, income from cruising rose from \$201.3 million to \$487.5 million between 2000 and 2007. In recent years, however, Europe, and to a lesser extent the Asia and the Pacific, have been rapidly gaining in importance (Dwyer and Forsyth, 1998). For instance, the Department of Tourism and Commerce, Government of Dubai (2008), estimated the cruise tourist arrivals in Dubai for 2008 to be 75 per cent more than that of the previous year.

Approximately 12,000,000 tourists cruised 2007 alone and it is currently one of the sunshine sectors of international tourism. It is estimated that the growth rate of cruise tourism is twice the rate of tourism overall. The global summary statistics for the North American cruise industry vividly highlights this trend (See Table 1). Among other things,

this summary indicates a growth of 10.6% for the gross global industry revenue during 2007.

Global Summary Statistics for the North American Cruise Industry, 2004 – 2007

Table 1

	2004	2005	2006	2007	Average Annual Growth			
					2004	2005	2006	2007
Capacity Measures*								
Number of Ships	144	145	151	159	7.5%	0.7%	4.1%	5.3%
Lower Berths	225,714	230,891	249,691	268,062	6.5%	2.3%	8.1%	7.4%
Available Bed Days (Millions)	69.95	74.79	79.92	86.98	10.4%	6.9%	6.9%	8.8%
Global Passengers								
Global Passengers (Millions)	10.85	11.18	12.00	12.56	10.3%	3.1%	7.3%	4.7%
Global Passenger Bed Days (Millions)	73.88	77.78	83.06	91.22	11.7%	5.3%	6.8%	9.8%
Capacity Utilization (Bed Days)	105.6%	104.0%	103.9%	104.9%				
Gross Revenues (\$ Billions)								
Gross Revenues (\$ Billions)	\$ 16.85	\$ 19.17	\$ 20.64	\$ 22.82	14.4%	13.8%	7.7%	10.6%
Gross Revenues per Passenger Cruise Day	\$ 228	\$ 246	\$ 248	\$ 250	2.4%	8.1%	0.8%	0.7%

Source: Business Research and Economic Advisors and Cruise Lines International Association

Notwithstanding all the positives that accompany this, many critics draw attention to the “dark side” of cruise crimes (Klein, 2002). The present paper highlights crimes onboard as one of the most potent barriers that prevent the sustainable growth of cruise tourism business. It proposes various solutions aimed at containing and responding to cruise crimes. A critical evaluation of the recent initiatives in this regard by the US legislative bodies is also attempted.

According to the FBI, during the four year period beginning in 2002 through February 2007, 184 crimes were reported to have occurred on cruise ships against US nationals. The industry data provided by the International Council of Cruise Lines during 2006, based on 15 cruise lines' submissions, totaled 206 complaints from passengers and crew during a three-year timeframe from 2003 to 2005 when more than 31 million people sailed on cruise ships. There were 178 complaints of sexual assault, four robberies and 24 missing persons during the three-year period. At first sight, this may seem a negligibly small number. And, if this number is reliable, cruise ships are much safer than many US cities. This small number, however, represents the tip of an iceberg. Independent studies reveal that one has at least a 50% greater chance of assault aboard a cruise ship than on land (Myers, 2007). Most cruise ships do not have sufficiently trained security personnel onboard. In addition, most cruise ships do not provide proper medical aid, evidence collection, and counseling to victims. In table 2 given below, we have classified the major parties directly involved in cruise crimes and have attempted to rank the severity/frequency of crimes based on our subjective estimates (Rank 1=Highest to Rank 4=Lowest).

A typology of cruise crimes and relative severity

Table 2

	Passengers Against	Crew Against	Miscellaneous Other Groups Against
Passengers	Rank 1	Rank 2	Increasing in the recent past (<i>Eg. Pirate attacks on cruise ships</i>)
Crew	Rank 3	Rank 4	

A study by Low (2006) highlights that seafarers and passengers sometimes vanish without a trace at sea. While the causes will remain unknown for ever, hypotheses abound: crimes, suicide, alcohol, piracy, and so on. Reported cruise crimes generally fall into one of the following categories: passengers upon co-passengers, passengers upon employees, employees upon passengers, and employees upon co-employees. Although there are only a few formally compiled statistical reports, informal information gathered from industry insiders implies that the frequency of each of these types of crimes follows the aforementioned order. To this must be added the increasingly frequent attacks on ships by pirates. Maritime piracy seems to be undergoing a period of renaissance (Kraska and Wilson, 2009). Even though the main targets of pirates are merchant ships, cruise liners too face a significant risk of attack. For example, on 4 April 2008, pirates commandeered a French luxury yacht in the Gulf of Aden with 34 crew members off the coast of Aden, Somalia. In one of the latest attempts, in December 2008, pirates attempted to hijack a US-based luxury cruising vessel, *Nautica*, but the vessel sped to safety. The International Maritime Bureau reported over two dozen actual or attempted attacks in 2008 in the Gulf off the coast of Somalia alone.

Cruise lines have a long history of failing to properly disclose incidence of sexual assaults, sexual batteries, thefts and other crimes (Dickerson, 2007). This is because the incentives to underreport the crimes are very high: publicized crimes aboard will substantially reduce sales volume. Marketing messages by cruise liners, in their attempts to lure tourists, project cruise ships as an exotic adventure. The mass media generally follows suit, except when it involves a highly sensational crime. For instance, the disappearance of George Smith IV (Dakss, 2005), while on a twelve night wedding cruise, sparked a great deal of media attention. While media attention could partially be the result of the unusualness of the crime, it also gave an opportunity for different stakeholder groups to reflect upon the seriousness of safety and security related issues onboard. A similar incident that provoked the attention of Australians is the death of Dianne Brimble who died aboard a P&O Cruises cruise ship of a drug overdose. This case, among other things, invited a lot of criticism about the 'let loose' party culture aboard cruise ships (Welch, 2008). Apart from such events, tourists' complaints seldom reach courts of law. One notable exception occurred in 1999 when in a sexual assault case, brought by a passenger, a Miami judge ordered that Carnival Cruise Line reveal statistics about sexual assaults.

The Cruise Eco-System: A Criminological Analysis

Cruise ships satisfy three vitals conditions the confluence of which makes a place a crime hot spot: an incapable target or victim, a motivated offender, and a lack of policing. 'Routine activities theory' in human ecology suggests that this is a fertile ground for individuals who pursue a criminal lifestyle (Cohen and Felson, 1979). Individuals in the touristic mood forget their routine selves and get transformed by the glitter of an environment aboard that is diametrically different from the environment in which they live regularly. They actively seek the enhancement of the experience of 'psychological escape', observed Gartner (1996). This author also notes that, given the aforesaid, tourism is conducive in perpetuating and supporting activities outside the bounds of ordinary life. Due to this unfamiliarity, they do not know how to behave so as to keep away from assaults; when assaulted, they do not know how to respond. Even if they know, there exist no credible law enforcement personnel to help. Again, individuals who have got criminalist drives might find the environment promising for successfully carrying out crimes. The

above said conditions are likely to give them cues of assurances that they can easily evade the rule of law (Dupont, 2003). As noted by Ryan and Kinder (1995), tourists wanting to let themselves loose would tend to patronize crimogenic places and cruise ships provide a great deal of opportunities for the expression of deviant behavior. The presence of bars, nightclubs, and strip joints make cruise ships 'hot-spots' of predatory crime (Crotts, 1996).

One important reason why individuals purchase cruise vacations is to freely express aspects of their 'selves' suppressed otherwise. Traditional land-intensive holidaying is bound by more rigid norms regarding what is acceptable. At least to some extent, they knowingly trade safety and security in exchange for this time-bound opportunity for self expression (Myers, 2007). Concern for safety is known to be a significant deterrent for travelers (Edgell, 1990). But, this probably might not hold so much true for cruise tourists. The environment aboard cruise ships is conditioned for liberties of sorts and it is difficult to exclude the liberty to perform a crime. The role of environmental design in amplifying or retarding crimes has long back been observed by the noted ecologist Hawley (1950). Even those well-intentioned cruise ship managements are reluctant to position security personnel in that environment since the same would reduce the opportunities for the free expression of 'self', leading to lowered guest satisfaction and loyalty.

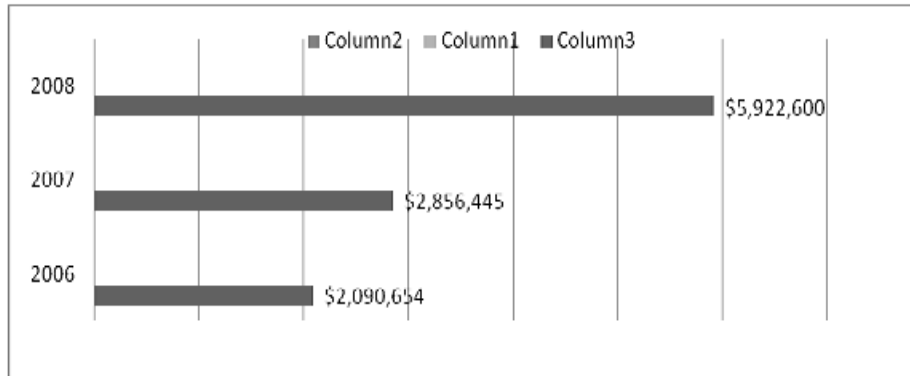
A related issue is out collective hypocrisy: we as individuals and society are unwilling to accept that something like grave crimes could ever occur in 'heaven': in popular understanding, cruise ships are nothing short of heavens. Historically, many reforms have failed due to our difficulty to accept them. Selwood and Kohm (1977) have highlighted how an important amendment to regulate off-street prostitution in the city of Winnipeg in Canada has terribly failed. In this case, many committees came and went, reports submitted and debated, but the recommendations did not result in any significant action.

Finally, cruise tourists are valuable targets: in general, their discretionary spending capacity is higher than that of a typical tourist on a land based vacation. Since most tourists onboard cruise ships do not know each other, the probability and intensity of their collective reaction against the criminals is also minimal. The space aboard a cruise ship is very limited and this 'criminology of place' would mean that cruise tourists are extremely visible and susceptible targets.

The Cruise Industry Perspective

In 2004, The International Maritime Organization (IMO), the U.N. arm dealing with maritime affairs, brought in the International Ship and Port Facility Security (ISPS) Code. At the same time, the U.S. created the Maritime Transportation Security Act (MTSA). At least in paper, these regulations are meant to have in all the ships and ports sufficient preparedness against crimes. Yet, the United States based cruise lines have always contended that they are not required by law to report crimes or casualties which occur outside U.S. territorial waters (more than 12 miles off the shore). Many cruise liners hold that crimes are to be reported only when committed within the US territorial waters and that the 'accepted' international legal framework does not support the imposition of reporting requirements to States for unlawful acts committed beyond their territorial jurisdiction aboard foreign flagged cruise ships (Wood, 2004). The lawyers of cruise liners argue that, in international waters, cruise ship becomes sort of a State or territory of its own and the ultimate responsibility for crime prevention and response lies with the sovereign of that territory, the cruise line management itself, and not with the sovereign of the vacationer's

home country. The spending by the industry to pursue this argument by lobbying the legislators is huge, estimates Klein (2007). The estimated lobbying expenditure, as reported in the ICV communiqué, is given below in graph 1. According to ICV, the 6 million dollar spent last year does not include payments made to campaign funds of US Representatives and Senators, nor does it include state or local lobbying expenditures.



Graph 1 Cruise Industry Lobbying Expenses during 2006-2008

Source: Klein, 2007, as reported in ICV communiqué

A hot issue for debate is whether we can give cruise ships sovereign State rights or whether the private security provided by the cruise owner be left to save the passengers. The involvement of multiple countries leads to further complications. Variables such as the flag country of the vessel, country of citizenship of the passenger, country of citizenship of the assaulter, country that holds maritime jurisdiction at the place and time when the crime was committed, etc, should be taken in to account while implementing any solution. In *Kermarec versus Compagnie Generale Transatlantique Case* (1959), the United States Supreme Court has overruled prior case law holding ship owners liable for crimes aboard. Yet, in very rare instances, like the *Wilkinson versus Carnival Cruise Lines Case* (1985), courts have asserted their rights to deal with cruise crime cases. In this case, a Texas court took exception to the ship owner's view that the former did not have judicial authority to deal with the case and gave a verdict favorable to the crime victim. Another instance is *Carlisle versus Ulysses Line Ltd Case* (1985): here, the court has gone a step ahead in asserting that cruise liners are answerable for crimes occurring at the various ports of call visited during the trip provided they have not given unambiguous advance warning to their customers about the likelihood of crimes. However, in general, judicial uncertainties resulting from the complexities merely lead to unending legal battles than to any positive results.

Four major industry giants, namely, Carnival Corporation, Royal Caribbean Cruises Limited, Crystal Cruises, and, Princess Cruises, signed a declaration in July 1999 under the auspices of the International Council of Cruise Lines (ICCL), pledging zero tolerance of crime and a commitment to report all crimes involving US citizens to the FBI. ICCL proudly proclaims that a cruise ship is inherently secure because it is a controlled environment with limited access (ICCL, 2008). It is nearly a decade later and self reporting

by cruise ship lines represents a whitewashing exercise. The cruise line industry has totally failed to step up to the challenge and make significant changes to improve safety, notes a communication from the International Cruise Victims Association (ICV), which represents victims of crime on cruise ships (Dickerson, 2007; ICV, 2008). The industry's inability to control itself suggests that legislative action is sorely needed in order to protect tourists against crime on cruise ships.

Even State governments are alert to the issue of cruise crimes: in June 2008, California State Senate has voted in favor of a legislation to keep peace officers aboard cruise ships. These attempts will force the federal government to tighten crime reporting requirements. A report appeared in Los Angeles Times dated June 18, 2008, reveals that the pro-cruise liner lobbyists have begun their tactics to ensure that this bill will not finally become a binding law.

The cruise industry is heavily oligopolized, with the top three transnational giants garnering around three-fourths of the total business. It is no exaggeration to say that these powerful corporations are beyond the reach of national law enforcement agencies. Wood (2004) notes that the largest cruise lines are incorporated in places around the world (e.g. Panama, Liberia, Bermuda, etc) that may have little to do with where they operate, or who owns and manages them. Many fleet owners flag their ships in poor countries which exempts them from strict regulatory controls. It is also interesting to note that for many years the US government itself silently promoted its ships being registered in countries like Panama to keep the US owned ships cost competitive (Carlisle, 1981). It is difficult to arrest the perpetrators of crime and legally defend the same due to the complexity of the ship ownership (Frantz, 1999). Cruise liners have long misused loopholes in regulations to their advantage. Even courts have not been much help to onboard victims of crimes. They have traditionally been passive in applying sanctions. Whenever the need for new regulations was mooted, the collective might of the industry could successfully lobby against it with the neo-liberal argument that regulations are anti-competitive, retrogressive, and serve no purpose (Seabrook, 1998).

The United States Legislative Interventions

On April 30, 2008, certain amendments to the Coastguard Reauthorization Act, HR 2830, proposed by Congressmen Matsui, Poe, and Maloney, have been passed by the US Congress. In continuation with this, on 12 March 2009, Matsui introduced a comprehensive bill (HR1485) titled "The Cruise Vessel Security and Safety Act of 2009". The same bill was introduced by Senator John Kerry in the US Senate (Bill S 588) on the same day. The advocacy group International Cruise Victims Association (ICV) succinctly summarized the spirit of the bill in this way: "It is time to change the antiquated laws governing seagoing vessels and their passengers. It is time to change the fact that American citizens, sailing on cruise ships with corporate headquarters in America, out of U.S. ports are so unprotected. This is not the time for Americans to discover that the laws that protect them here on American soil do not go with them on their 'vacations of a lifetime'.

At the time of drafting this paper the bill is yet to become a law; but, this is a solid first step in addressing cruise-crimes. Accurate and accessible crime information is the critical missing link in anti-crime efforts and the approved amendments will ensure that cruise crimes will be reported timely. Also, the amendments want to tighten safeguards against

crimes onboard. However, these amendments need the approval by the Senate before they can be finally implemented.

Some of the salient features of the amendment are:

- Cruise liners should invariably report to the government crimes that occur aboard
- Coast Guard should collect and maintain detailed cruise-crime statistics
- Such information, classified cruise liner-wise and ship-wise, should be made available online
- Crime statistics to be updated at least quarterly
- Cruise liners should prominently display a link in their homepages to the Coastguard website notifying the crimes
- Cruise tourists should be informed well in advance and in detail about their rights and how to secure them

While these amendments provide an important first step toward crime free cruising, many issues remain to be resolved:

- How to give an optimal mix of incentives and punishments for the cruise liners so that they do not hide crimes happening aboard?
- Given that there are no mandated law enforcement official or criminal investigator on cruise ships, how to secure a crime scene, recover evidence, identify and interview witnesses, etc?
- How to 'tame' ships that carry US citizens, but registered in another, probably a rogue, country?
- How to 'legally' take in to custody a perpetrator of crime in the high seas who is not a US citizen?

A related regulation that is being debated now in the Senate is the Kerry-Matsui bill (The Cruise Vessel Security and Safety Act of 2008, HR 6408). This legislation would make it mandatory to equip entry doors of each passenger stateroom and crew cabin with peep holes, security latches, and time sensitive key technology. It demands the formulation of procedures to determine which crew members have access to staterooms and when.

This legislation would require cruise ships to maintain medications used to prevent sexually transmitted diseases after assault, as well as equipment and materials, popularly called 'rape kits', for performing a medical examination to determine if a victim has been raped. It also seeks the presence of a US licensed medical practitioner onboard to perform the necessary examinations and to administer treatment.

Additionally, each ship would be required to maintain a log book, which would record all deaths, missing individuals, alleged crimes, and passenger/crewmember complaints regarding theft, sexual harassment, and assault. The log books would be available to FBI and Coast Guard electronically, as well as to any law enforcement officer upon request. Also, statistical information would be posted on a public website maintained by the Coast Guard. This is a major development: the personal safety information available to the public will be a great influence in their choice of cruise ships, operators, times, and destinations.

Curbing the Crimes: Some Measures

As noted by Poon (1993), tourism is a double edged sword: but, we cannot abandon it altogether just because it has an element of blight. What we should do is to continue to

experiment with ways and means to minimize the blights and maximize the blessings of tourism. In the case of cruise tourism, we believe that proper background checks in staff selection can be implemented to substantially exclude employees with criminal histories. However, background verification of international crew hailing from different countries is extremely difficult if not impossible. Cruise labor is truly international since most cruise ships have employees from at least three or four continents (Wood, 2002). Technically, the U.S. State Department oversees the issuance of work visas to foreign nationals who sail with ships into U.S. ports and U.S. embassy personnel in the crew member's country of origin conduct background checks. But, the difficulty of data gathering and analysis is for the most part, merely procedural. Background checks as a means of verifying the criminal past of passengers is not practically viable either. Also, cruise liners can more easily disown the responsibility of crimes committed by passengers as against their own staff.

Deploying law enforcement officers aboard is also suggested as a measure in containing crime. However, scarcity of supply of law enforcement personnel, insufficient even to manage the homeland security, is a grim reality. Perhaps a fund could be established, financially supported by the cruise lines and independently managed by a trust. Coast Guard, US Marshalls, or security personnel could be employed aboard and paid via this fund to provide the immunity from cruise line mismanagement. It may be insisted that such a security force should have a critical minimum number of retired police officials and personnel specially trained to handle the unique off-shore criminal situations. Also, toll free hotlines should be provided aboard so that affected parties can immediately establish contact with law enforcement officials even in the event of lackluster support from the cruise line management. Cruise ships should be required to have a specially trained medical team to handle the special type of harms caused by crimes aboard and to collect forensic evidence. An on board Sexual Assault Nursing Examiner (SANE) and certified rape evidence collection kits are essential. Among felony crimes on the high seas that are reported to the FBI, sexual assault rates number one, notes RAINN (Rape, Abuse and Incest National Network, 2009).

The concept of community policing has had many successful applications in different contexts, even though it is yet to be tested onboard. Community policing focuses on the reduction of crime and social disorder through community involvement and partnership (Sparrow, 1988). It is a powerful philosophy to identify every stakeholder in cruise tourism, especially the community of tourists onboard, as partners who share the responsibility for identifying priorities and developing and implementing security responses. At the beginning of every cruise, tourists should be offered a prevention session or literature on the types of crimes they might encounter. In fact, every cruise passenger should have the responsibility of ensuring for himself or herself certain things such as checking the cabins thoroughly when entering and keeping the cabin keys / keycards safely. Parents travelling with kids should impose similar restrictions upon kids as if they were on land. Passengers should also ensure to keep with them all the essential contact numbers, such as that of FBI.

All these measures should be strictly implemented and permission to enter territorial waters should be denied for a ship if they are violated. Heavy penalties should be levied against those cruise lines that are lenient to crimes. Cruise liners that show insensitivity to regulations should be blacklisted and their names negative publicity across media. If violations become frequent, a cruise line's license should be revoked. It is also important for cruise liners to understand that providing crime-free cruising is very important in trust

building. As noted by Weaver (2008) developing sustained trust in customers is vital in strengthening the brand equity of a cruise liner.

Conflicting criminal justice frameworks in different national contexts complicate the handling of cruise-crimes. We propose that countries that have major stakeholder groups in cruise tourism should form an inter-governmental working group of top political decision makers to promote uniformity in crime-related regulations. For example, an agency such as the International Maritime Organization (UN-IMO) could coordinate this activity. Convention for the Safety of Life at Sea (SOLAS) and International Ship and Port Facility Security (ISPS) Code are two of the vital IMO initiatives, the provisions of which, if strictly implemented, can drastically improve the personal safety and security onboard cruise ships. Thus far, the IMO concentrated its attention primarily on issues such as maritime safety of the ships, efficient navigation, marine pollution, and commodity shipping, despite its UN mandated power to enforce and administer all matters relating to international shipping (Hesse and Charalambous, 2004).

While there are many provisions even in the existing laws, ambiguities and uncertainties in interpretations when it comes to their applicability in the seas greatly minimize their use. In fact, the Kerry-Matsui bill, discussed in the previous section, identifies this as a major issue and seeks to establish a reporting structure based on the current voluntary agreement in place between the cruise industry, the FBI, and the Coast Guard. Protocols and procedures that provide details on how to respond to specific crimes are, though seemingly redundant, vital elements of any quick redress strategy. Useful ideas may be drawn from existing protocols, like the Mississippi Protocol for Sexual Assault. Another important change would be to clearly specify the decision making authority and flow of command on board and in the land. The help of prominent anti-cruise crime advocacy groups may be sought in drafting these (Weed, 1997).

Finally, Customer to Customer (C2C) social networking is formidable enough to build natural checks and balances in the cruise tourism ecosystem. Online social networks are the twenty-first century's answer to collective action by means of a relational approach (Diani and Mcadam, 2003). Currently, there are many online travel communities in whose discussion forums customers can share their satisfactory or dissatisfactory cruising experiences. This mechanism will be detrimental to unscrupulous operators since community members are not likely to purchase cruise holidays from those about whom negative feedback has been published. By the same logic, cruise operators who have impressed tourists with superior safety and security measures will be given higher community ratings which will lead to higher sales volumes and profit. Most existing travel communities are very general in their scope; it would be beneficial to have some cruise tourism focused social networking sites.

Conclusion

Combined with a growing middle class having truly global values and the industry's success in reaching out to them, the cruise industry is sure to grow. At the same time, cruise crimes represent one of the negative impacts of globalization at sea. Cruise ships are known to give great value to efficiency, calculability, predictability, and control factors (Weaver, 2005). These factors provide protection against the natural enemies of the physical world (ex. hurricanes, icebergs, etc), but downplay issues like crime onboard. Cruise crimes have emerged as an important and pervasive issue for all cruise tourism stakeholders. But,

uncontrolled internationalization of the industry, among the various other things discussed in this paper, has seriously incapacitated the authority of traditional law enforcement agencies in acting against the crimes onboard (Brunt, Mawby, and Hambly, 2000).

A cruise ship is marketed as a self contained world, offering everything that an indulging tourist can potentially want from a vacation. For many cruise tourists, the ship itself is more their final destination than the ports of call (Dowling and Vasudavan, 2000). But sometimes, the lack of adequate law enforcement mechanisms onboard can create an environment no passenger wants. The legislative initiatives to bring law and order aboard should be seen in the light of this (Economist, 2002). It is hoped that these initiatives will bring in a new tomorrow of crime free cruising, when tourists can, devoid of all worries, "cross the mirror to another universe" (quoted from a Celebrity Cruises press release during 2004).

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