

The disquieting Dotcom case

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The arrest of the alleged internet pirate Kim Dotcom and three of his associates last week is questionable both for the manner in which it was conducted and for the official actions that preceded it.

The early-morning raid on his mansion north of Auckland bore an unintentionally comic resemblance to a movie from Hollywood - one of the pillars of the American corporate establishment that has a keen interest in seeing Dotcom in a US court. Some 76 officers, six times as many as took out Osama bin Laden, swooped - a lot more than are deployed against allegedly desperate homegrown criminals, except perhaps for terrorists in Te Urewera. The police also used two black helicopters, so operation commander Detective Inspector Grant Wormald's assertion that "it was definitely not as simple as knocking at the front door" is hard to argue with.

Wormald's dry remark referred to Dotcom's alleged retreat into the house: he is said to have activated electronic locks, which police had to "neutralise", and to have "barricaded" himself in a safe room. The images evoked are straight from a spy movie and irresistibly characterise Dotcom as a desperate fleeing criminal. But people can react strangely when helicopters land on their front lawn at dawn, particularly if they once put a US\$10m bounty on the head of Osama bin Laden, as Dotcom did.

The police's colourful version of events was helpfully presented to the news media in a detailed press release - in stark contrast to the neither-confirm-nor-deny response they take to media questions when, say, a civilian is shot by an officer. Elsewhere, Dotcom was described as having had a suspiciously sawn-off shotgun within arm's reach in the "panic room"; it transpired that it was locked in place in a gun safe - although the keys were in the lock.

Depicting Dotcom as a sweating Dr Evil was clearly in line with the police's PR needs, but as Judge David McNaughton remarked, no evidence has been presented that Dotcom has done anything wrong, and there "appears to be an arguable defence at least in respect of the breach of copyright charges". The public is asked to be content with allegations by the FBI, which include

conspiracy to commit racketeering and money-laundering. We would not be the first to note that copyright infringement, the central charge against Dotcom, does not carry a heavy enough maximum penalty to trigger the provisions of an extradition treaty.

The extradition hearing is set down for February 22 and, on the face of it, there seems good reason to believe that the application will be successful. That will be a matter of pure legality, but what remains a question for legitimate debate is how Dotcom came to be here in the first place.

This newspaper has no particular reason to go in to bat for a flamboyant, oddball geek, not least because we engaged in a lengthy and expensive defamation wrangle with him, which never went to court. Like all newspapers, we have no sympathy for those who infringe copyright (although it bears mentioning that many millions of people have used Dotcom's Megaupload site for perfectly legal file-sharing).

But NZ First leader Winston Peters and Labour leader David Shearer are quite right to raise questions about the process by which Dotcom was allowed to come here. He passed the so-called character test for residency, but failed the character test set by the Overseas Investment Office when he applied to buy the mansion he now rents.

John Key has blandly described that as "a potential anomaly", but it is a good deal more than that. Most New Zealanders would take the view that if someone is of good enough character to live here, he is presumably of good enough character to buy a house to live in.

Dotcom's criminal record, which he declared to immigration authorities here, has been wiped clean by Germany's clean-slate laws anyway. Regulations that allow someone to walk among us (because he's okay) but not invest in the country (because he's a rogue) are more Alice-in-Wonderland than anomalous.

In short, a legal resident here, which Dotcom is, is entitled to our protection against unreasonable harassment by foreign jurisdictions. It is rooted in a notion, unknown in our law books but familiar to every one of us: a fair shake. There needs to be a good deal of official disclosure about the background to this case if it is to lose the stench that hangs around it.