

An Analysis of the Existing Legal Regime and Law Enforcement Mechanism of Transnational Organised Crimes in Sri Lanka and National Security Implications

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Abstract

Transnational Organized Crimes (TOC) has become a serious threat to the world recently. Almost every state of the world, big or small has faced this recurrent threat in numerous ways. TOC has started proliferating since about three decades ago due to the advancement in new technologies and the globalization of trade and communication. Drug trafficking leading the way, other organized crimes; human trafficking, human smuggling, arms trafficking and Cyber-crimes have become serious threats to international security together with other transnational crimes. The United Nations brought the International Convention on Transnational Organized Crimes (UNTOC) in 2003. UNTOC expects the international community to cooperate in combatting existing and imminent threats of TOC, in its Art. 1, criminalizing organized criminal groups, whilst incorporating the provisions of the Convention into their domestic legislation. Some states have adopted enabling domestic legislation, which most countries in South Asia have failed to do. Identification of root causes; especially financing agents of organized criminals would help escape future threats to national security. The aim of this paper is to assess the strength of existing domestic criminal legislation of Sri Lanka to combat TOC, and the likely national security threats posed by uncontrolled criminal groups. This paper uses a mixed method of research, primarily using empirical data obtained by a questionnaire distributed among a purposive sample of police officers and military officers who have experience in handling organized crime situations, lawyers engaged in criminal practice and academics in the related field. In-depth interviews were conducted with senior lawyers to ascertain their views on legal and practical barriers to law enforcement and to understand about the litigation process. Existing domestic legal framework of Sri Lanka was compared with international legal norms. Primary data were analyzed by content analysis and descriptive analysis methods. Findings revealed that existing legal framework in Sri Lanka is not satisfactory, and does not cater for the objectives of the global initiatives against TOC. Corruption and lack of resources were identified as other main barriers for effective law enforcement.

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