

Recommendations to Improve the Legal Framework in Sri Lanka on Combating Involvement of Convertible Virtual Currencies in Narcotic Drugs and Psychotropic Substances Trafficking

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Abstract— Trafficking of illicit drugs and psychotropic substances has become a large problem in the present world due to abusive characteristics, health problems, and transnational crimes. Each state fights against illicit drug trafficking at different levels. Sri Lanka is a state that signed the three international conventions on control of drugs, generally called the 1961, 1971, and 1988 Conventions. The country consists of a few different statutes to combat illicit drug trafficking, which includes natural and synthetic drugs. In the present era, traffickers are deviating from traditional drug trafficking methods and are being used new technology to conduct and make trafficking efficient. The scrutiny operates to find out the gaps in the Sri Lankan legal framework for combatting modern technology-based illicit drug trafficking trends in terms of Convertible Virtual Currencies (CVC). Also, the research paper identifies the gaps and makes suggestions to uplift the criminal justice system of Sri Lanka in combatting illicit drugs and their trafficking through convertible virtual currencies/ digital currencies, which would be a severe problem in the near future due to the high-tech drug trafficking. The sources used were mainly the Internet and several reports issued by international legal enforcement authorities against illicit drug trafficking, domestic statutes, and books.

Keywords— drug trafficking, CVC, drug law

I. INTRODUCTION

Illicit drugs, in their literal meaning, are substances that are criminalized for selling, using, exchanging, trafficking, and manufacturing by various conventions internationally and in many jurisdictions worldwide. There are three predominant illicit drug control conventions which are named the Single Convention on Narcotic Drugs in 1961 which was mainly focused on reducing the number of international treaties against narcotic drugs and suppressing the production of raw materials of narcotic drugs, *United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic in 1988* and the *Convention on Psychotropic Substances of 1971*. The main objective of the study inevitably is to find out the novel trends of narcotic drug trafficking and usage of convertible virtual currencies in terms of purchase of illegal/ controlled drugs in large amounts for re-selling and distribution among population and to suggest legal reforms and new regulations to control usage of convertible virtual

currencies (herein after called “CVC”) which supplies anonymity to parties that would help drug trafficking. The big picture of the attempt is the prevention of narcotic drugs and psychotropic drug trafficking. The research is based on the current legal framework in Sri Lanka to combat narcotic drugs and psychotropic substances and international legislative coverage regarding narcotic drug trafficking and use of convertible virtual currencies (will be discussed in the paper). The suggested reforms are to control illegal drug trafficking and CVCs. This library-based scrutiny collected data and information from treaties, books, research papers, and legislative enactments. Therefore, the “Doctrinal Methodology” has been used throughout the research. This methodology explores and evaluates the legal framework and concepts relevant to the study.

A. What are Narcotic Drugs

Correspondingly, in Article 1 of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Narcotic drugs are defined as natural or synthetic substances mentioned in schedules 1 and 2 of the Single Convention on Narcotic Drugs which consists of a number of illicit drugs out of which are allowed for the usage of medical matters. In addition, the word addictiveness has to be in the definition of narcotic drugs for sure, as such drugs are very addictive and harm society's health, economic, cultural, and political foundation (Nations, 1994). Further, narcotic drugs can also be defined in general terms as "A substance used to treat moderate to severe pain. Narcotics are like opiates such as morphine and codeine but are not made from opium. They bind to opioid receptors in the central nervous system. Narcotics are now called opioids". In addition, Sri Lankan law defines the term as, I, II and IV of the United Nations Convention on Narcotic Drugs which are not mentioned here, 1961 and which are specified in the Third Schedule to the Act (Nations, 1998).

B. What are psychotropic substances?

A drug or other substance that affects how the brain works and causes changes in mood, awareness, thoughts, feelings, or behavior. Examples of psychotropic substances include alcohol, caffeine, nicotine, marijuana, and certain pain medicines. Many illegal drugs, such as heroin, LSD, cocaine, and amphetamines, are psychotropic substances. Also called a psychoactive substance. In Sri Lankan law, psychotropic substances are defined as any natural or

synthetic substance or any natural material included in Schedules I, II, III, and IV of the Convention on Psychotropic Substances, 1971 and specified in the Fourth Schedule to the Act (Nations, 1998).

C. Convertible Virtual Currencies

Cryptocurrencies, or convertible virtual currencies, have acquired substantial attention and acceptance in recent years. For example, Bitcoin and Ethereum can potentially transform financial institutions and transactions. This paper examines convertible virtual currencies, emphasising their regulation and the issues they pose to established financial institutions. Convertible virtual currencies have ushered in a new paradigm in financial systems, bringing potential benefits and dangers. As cryptocurrencies grow, regulatory regimes must balance encouraging innovation and safeguarding investors and consumers. International collaboration and standards are essential to address cryptocurrencies' global character. Governments and stakeholders may manage the complexity of convertible virtual currencies and harness their transformational potential securely and regulated by addressing concerns about volatility, security, money laundering, and interoperability.

II. DISCUSSION

A. History of drug controlling

The first-ever convention on controlling narcotic drugs was held in China in 1909, with the participation of 13 countries. This led to the Hague Convention held in 1912 officially named the International Opium Convention which the parties agreed to control the production and distribution of opium mainly and to control the production, manufacturing, and distribution of other Opium derivatives heroine, and morphine. In addition, agreed to control cocaine too (Niaz, 2017). The Hague Convention came into force after all the signatory parties ratified in 1919 as the "Treaty of Versailles". Further in 1925 International Opium Convention in Geneva was conducted, followed by The Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs in 1931 and the Convention Of 1936 which made certain drug offenses international crimes.

The three predominant drug-controlling conventions were held in 1961, 1971, and 1988 respectively Single Convention of 1961 which the purposes of conducting was to amalgamate all pre-existed multilateral treaties on controlling illicit drugs, to merge the previous international drug control bodies, and to add the cultivation of such plants which are the raw material of illicit drugs. Not only the natural raw material or natural illegal drugs, but The convention also focused on synthetic drugs and added some to the 116 prohibited narcotic drugs list. The 1971 Convention on Psychotropic Substances mainly focused on synthetic psychotropic illicit narcotic drugs, including amphetamine-type substances commonly called ATS and hallucinogens like LSD and sedative-hypnotics used to maintain or induce sleep, such as barbiturates. The 1988 Convention, unlike the previous two conventions, also

addressed the growing problem of illicit drug trafficking by differentiating the 1961 and 1971 conventions, which focused on making available narcotic drugs and psychotropic substances for medical and scientific purposes while ensuring narcotic drugs and psychotropic substances are not illicitly produce or making available. The convention is required internationally to incorporate the process by making illicit drug trafficking involving the international criminal justice system and penal sanctions imposition by domestic legislatures for drug trafficking. It needed to expand illegal drug trafficking offences by making large-scale trafficking such as planning, financing, facilitating, money laundering, and managing criminal offences. Likewise, the 1988 Convention set up international legal corporation measures. The convention says criminal sanctions are not required for possession and cultivation for personal consumption.

To suppress the facilitating and related actions for illicit drug trafficking, the requirement of international and global corporations arose. To cater to the requisite, several other conventions, treaties, and schemes were implemented such as the Financial Task Force, Commonwealth Scheme for the Rendition of Fugitive Offenders, Scheme relating to Mutual Assistance in Criminal Matters within the commonwealth countries, Scheme for Transfer of Convicted Offenders within the Commonwealth, Council of Europe enforced several treaties on serious crimes which include crimes related to drug traffickings such as agreement on Illicit Traffic by sea and another few conventions and treaties which are not mentioned here. Not only internationally, but some conventions are related to drug trafficking on a regional basis, likewise America, Africa, Asia, and Europe. Memorandum of Understanding (MOU), which were parties by the United Nations International Drug Programme and sub-regions worldwide, can be seen. The Comprehensive Multidisciplinary Outline of 1987 set the basis for developing drug laws under all aspects of illicit drug trafficking. The 1987 Comprehensive Multidisciplinary Outline focused on the reduction of demand for illegal narcotic drugs, the rules that should impose against illicit drug trafficking by vessels, vehicles, and aircraft as a much important aspect of illegal drug trafficking which amounts to developing the drug trafficking methods in terms of distribution of illicit drugs.

Further, suppression of illicit drug trafficking, licit production of narcotic drugs and psychotropic substances, and control of the supply of narcotic drugs were within the scope of the basis made by the 1987 Comprehensive Multidisciplinary Outline. The Global Programme of Action on Drugs of 1990 predominantly looked into international corporations against illicit drug trafficking. Similarly, Naples Political Declaration and Global Action Plan Against Organized Transnational Crimes seek the states to adopt the actions individually and collectively. It is noteworthy that illicit drug trafficking involves severe transnational crimes such as murders, distribution of illegal drugs and psychotropic substances, cultivation of components of illicit drugs, money laundering, and unlawful interference with bank processes likewise.

In Sri Lankan law, the combatting exercises are continuing in light of several legislations such as Poison, Opium, and Dangerous Drugs Ordinance No. 17 of 1929, Conventions Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act No. 1 of 2008, Tobacco Tax Act No. 8 of 1999, Cosmetic Devices and Drugs Act No. 27 of 1980 and Customs Ordinance No 17 Of 1869. In addition, Prevention of Money Laundering Act plays a main role against illegal drug trafficking.

The cultivation, collection, preparation, processing, selling or offering to sell, manufacturing, storing, having in possession, consuming, distributing, using or obtaining of poppy extracts commonly named opium, morphine, and heroine, and the resin of hemp plant generally recognized as Hashish, Bhang or Ganja are banned in Sri Lanka land and water territories due to the higher potential of abuse.

B. Sri Lankan Legal Framework on Illegal Drug Trafficking.

Trafficking has been defined in Sri Lankan law as,

- a) to sell, give, procure, store, administer, transport, send, deliver or distribute; or
- b) to offer to do anything mentioned in the paragraph

Illegal narcotic drugs and psychotropic substances are controlled and governed by a few key enactments namely the Poison, Opium, and Dangerous Drugs Ordinance, Convention against Illicit Traffic in Narcotic Drugs, Psychotropic Substances Act No. 1 of 2008, the Cosmetics, Devices and Drugs Act of 1981. The Poison, Opium, and Dangerous Drugs Act's goal is to limit the public's access to dangerous and illegal drugs. Even if the Act is enforced, the drug compounds can be misused. As a result, the threat can be gradually minimized and averted. It has the power to prosecute anyone living outside of Sri Lanka who advertises such drugs for sale. However, the Act allows for an exemption to the aforementioned activities if authorized by, or in lieu of, the terms of this Ordinance and a license from the Director. A medical practitioner may administer, prescribe, or provide any dangerous substance for the treatment of his patients, but he shall not supply to any patient more than the amount to be consumed by him over the course of three days. Section 54A deals with the prohibition of manufacturing, trafficking, importing, exporting, and possession of dangerous drugs. Law says to grant capital punishment or life imprisonment for a person who is convicted under section 54A. Further section 56 says, "A dentist may administer, prescribe, or supply any dangerous drug for the dental treatment of his patients by local application, but shall not supply to any patient more than the amount to be used by him during three days. (3) A dentist may, for the purpose of dental treatment, administer a dangerous drug by hypodermic injection. (4) A veterinary surgeon may administer, prescribe, or supply any dangerous drug for the treatment of animals, but shall not supply to any person more than the amount to be taken by the animal during three days. (5) Any person may administer any dangerous drug by and in accordance with

the orders of a medical practitioner, dentist, or veterinary surgeon". Any person who abets to commit or attempts to commit drug trafficking shall be guilty under the Poison, Opium and Dangerous Drugs (Amendment) Act. In addition to this Act, in law, producing, manufacturing, extracting, offering, offering for sale, and cultivation of cannabis, coca bush, and opium poppy to produce narcotic drugs or psychotropic substances are prohibited. Organizing, arranging, or financing such an operation and knowingly letting a property support drug trafficking are prohibited by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Exporting and importing such plants used to make drugs and manufactures also are banned.

C.. Novel Technological Interference in Drug Trafficking

Society has flourished innumerable ways due to globalization and modern technology in numerous ways, which can identify as economic, cultural, and educational. Globalization was taken place predominantly due to modern technology and by removing the bars to cross-border movements after the collapse of the East communist complex. Modern technology is instrumental in making lives easy and uplifting society's modern requisites. Especially the platforms using the Internet. For example, easy payment transfers, accessible message services, telephones, telecommunication, etc. On one hand, globalization is essential to law enforcement authorities and intelligence services in keeping public peace and order.

On the other hand, it is currently used by illicit drug traffickers to conduct the pyramid-like illicit drug business and to be hidden from law enforcement authorities against illicit narcotic drugs. These are the main focuses of drug traffickers. Therefore, the involvement of modern technology has become a precious component of drug traffickers. We live in a world consisting of 5.18 billion internet users, which amounts to 64.6% of the world population and has an internet user growth rate of 2.9%. In that sense, global drug traffickers might be interested in trafficking through the Internet and using modern technology to conduct illicit drug business and make the business efficient. At to beginning of the new millennium, the guardians of global drug treaties called the International Narcotic Control Board addressed the problem of new illicit drug trending due to globalization and the effects of the phenomena. The board identified the usage of electronic devices in illicit drug trafficking by publicly inciting via the Internet and inducing people to use those illicit drugs, which violates Article 3 (1)(c)(3) of the 1988 convention, which reads, "Publicly inciting or inducing others, by any means, to commit any of the offences established following this article or to use narcotic drugs or psychotropic substances illicitly". The idea of the board was that the Internet supplies a platform for introducing, inducing, and teaching the manufacturing methods of natural and synthetic illicit drugs and psychotropic substances which are controlled by law enforcement authorities. And the report of 2000 by the International Narcotic Control Board drew their attention to

unauthorized virtual pharmacies on the Internet that supply controlled drugs and substances without a prescription which stands contrary to Article 10(2) of the 1971 Convention, which reads, "Each Party shall, with due regard to its constitutional provisions, prohibit the advertisement of such substances to the general public".

D. Convertible Virtual Currencies and Drug Trafficking

Convertible Virtual currencies which are defined as digital assets that have equivalent value to real currency, are intangible and totally in electronic modes, which can be used to make payments within different jurisdictions in a fast and cost-effective way. For example, Bitcoin, Ether, Ripple, Crypto, etc. Different stakeholders produce CVCs (Sackheim & Howell, 2021). In some instances and examining the facilities of CVCs, it seems like a platform made to facilitate illegal conduct. According to the United Nations Office on Drug and Crime Report, 2020, 68% of the Market share in darknet marketplaces comprises drug dealers. Ms. Rebecca Owen, acting deputy chief of mission, stated in training held in Fiji in July 2022 said that,

"The United States Government knows that drug traffickers use virtual currencies because they believe that such transactions are anonymous, making detection by the authorities more difficult. Online marketplaces are also increasingly used for drug trafficking due to their speed and convenience. Many of these marketplaces are on the dark web, where buyers and sellers can connect secretly".

Virtual currencies make the prices very efficient despite drug traffickers operating the facility because of anonymity and lack of regulations. Drug traffickers can sell their potions of illicit drugs, and the buyers are too facilitated with paying the amount via virtual currencies as no authority can identify the seller or buyer through the currency transaction as it is highly private. The purchasers can purchase illicit narcotic drugs and psychotropic substances from online marketplaces, which consist of many websites selling illegal drugs, by paying through virtual currencies or cash. To protect anonymity, paying through virtual currencies is trending in well-developed countries. The largest illegal darknet marketplace is named "AlphaBay" had hundreds of thousands of buyers and vendors who deal in virtual currencies such as bitcoin, monero, and ether. The web store keepers send the ordered drugs via postal or private couriers to the purchaser, or the purchaser can buy similar from the local drug dealers by paying cold cash. The local dealers can convert the received cash into digital currencies in kiosks and send the virtual currency to money launders. Money launders pay traffickers the received virtual currencies. Again, the traffickers purchase the chemicals that need to produce illicit drugs and psychotic substances through virtual currencies. Convertible Virtual Currencies are attractive due to their lack of anti-money laundering and countering the financing of terrorism controls and limited transparency.

Considering the Sri Lankan regulatory framework on virtual currency transactions, in 2019, the Department of Payment and Settlements of the Central Bank of Sri Lanka

issued a circular on e-money accounts, individual stored value limits, day limits, and transaction limits applicable for customer e-money accounts. This circular can be called positive feedback from the Central Bank regarding combating illegal drug trafficking and their payment methods, as the circular restrict persons from creating many e-money accounts irrespectively the mobile network used, which would be an advantage to modern technological drug trafficking exercise. Peer-to-peer (P2P) exchangers are currently working in online markets. P2Ps are exchangers of virtual currencies into physical currencies and/or into another type of virtual currency. Most of the P2Ps are unregistered. It carries out the business by pretending as an entity. But the truth is there is an individual person who runs the business. P2Ps are mixing money mules to hide the true source of payment. CVC kiosks also can use in money laundering and drug trafficking as cited in the case of *United States v. Khalil Wright*. CVC kiosks are Automated Teller Machines (ATMs) that can be used to exchange virtual currencies into cold cash. There is no law regulating the conduct of CVC kiosks in Sri Lanka. A provision shall be entered into the legal framework of Sri Lanka to make registering all the CVC kiosks compulsory. Because of the global trend, Sri Lanka has the challenge to face the problem which is about to come into practice shortly in terms of combatting illegal drugs and psychotropic substances. Therefore, as another positive feedback from law enforcement authorities, a maximum daily limit for a single CVC account shall be imposed even exchanging from different machines. The CVC kiosks' usage is upon mobile phone numbers and a regulation shall be taken place to restrict multiple identity usage in the same mobile number or multiple mobile number usage by the same identity. The previously suggested regulation would thoroughly mitigate the usage of CVC in drug trafficking and money laundering as the daily limits are imposed and the restriction over usage of multiple identities and multiple mobile numbers. In addition, the decentralized data records/ ledgers in specialized networks and computers namely "blockchains" should be noticed by blockchain checkers to identify the patterns of payments and receiving. This regulation will quash the problem of mixing up the payments done by various identities and mobile numbers to a certain extent. In such circumstances, the traffickers may use a CVC account of another. Another regulation shall be imposed in this regard by making it mandatory for each party using CVC for payment to declare the purpose of payment, at any given time. Moreover, the registration method for such virtual currency exchangers should be there, under the central bank of Sri Lanka. Making it compulsory for kiosk operators to enter the location and the machine's physical address would be another legal tool from which Sri Lankan law enforcement will benefit.

Further, the law-making entities should also impose a regulation to register domestic digital currency buyers. They shall declare how to earn money that exchanges with digital currencies. The harmony between the states in combatting illegal drug trafficking is vital as the transactions made through CVCs are primarily transnational. As a positive step, in Sri Lankan legal framework, the Minister shall notify the action taken by the Sri Lankan government to extradite or prosecute a person

convicted of money laundering, which is a significant component in illegal drug trafficking. But unfortunately, the Money Laundering Act of Sri Lanka is silent on CVC transactions. The Prevention of Money Laundering Act 2006 governs other physical and electronic commerce. To put the CVCs under the roof of the Prevention of Money Laundering Act, Sri Lankan Central Bank can allow not an individual to make CVC transactions by himself and confer the authority to a single body registered in the Central bank as a facilitating platform for CVC transactions, to make all CVC transactions govern by Prevention of Money Laundering Act. The authorized platform shall make a report consisting of the name and address of the person of the transaction, the type of CVC, the time of the transaction, the amount of CVC, the assessed true value of the transaction in Sri Lankan Rupees, name and address of the counterparty to the transaction.

III. CONCLUSION

As discussed, global drug trafficking is using different methods in different eras. In some eras it was run very inefficient and at present, technological development and knowledge have brought illegal drug trafficking to a very far extent as well as very efficient and very much profitable and saleable. Especially in the darknet by taking advantage of encrypted messages, Global Positioning System (GPS), and most commonly hidable payment methods, which will not leak a single piece of information and the transferrer and transferee. In this regard, convertible virtual currencies play a vital role by pampering drug dealers with the comfort of advanced technology. Therefore as a nation, to mitigate illicit drug usage and trafficking, first, we should reduce consumer demands while fighting against illegal drug usage and dealing with the light of an empowered legal framework. The suggestions would help achieve the state goals and the goals of all civilized humanity regarding addictive, harmful controlled drugs and psychotropic substances.

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