



RASHTRIYA RAKSHA UNIVERSITY

(An Institution of National Importance)

Pioneering National Security and Police University of India

To,

The Secretariat

Ad Hoc Committee

United Nations Office on Drugs and Crime

Written Submission on behalf of Rashtriya Raksha University for the Sixth Session of the Ad Hoc Committee to elaborate a comprehensive International Convention on countering the use of Information and Communications Technologies (ICTs) for Criminal Purposes.

Introduction

Rashtriya Raksha University ('RRU') is an Institution of National Importance and has the vision to emerge as a premier center of knowledge and an academic-research-training ecosystem for national security and police. It aims to provide security and strategic education in contemporary and futuristic security and strategic studies and interdisciplinary areas. Our university contributes to the vision of India of Peace, Prosperous, and Stable World in alliance with grand strategic cooperation between like-minded nations and promoting greater understanding between internal security officers, military and paramilitary forces, diplomats, civil servants, and civilians to promote the cause of the nation. It also adopts a two-tier approach, at the national and international levels, its education, research and training, and extension to achieve capabilities to respond to the needs, expectations, and aspirations of the security and strategic institutions and forces as well as law-making, governance, judiciary, economy and the civil society organizations.

RRU welcomes and appreciates the initiative of the Ad Hoc Committee ('AHC') to elaborate a comprehensive International Convention on countering the use of Information and Communications Technologies (ICTs) for Criminal Purposes ('Convention'). RRU was actively involved and submitted its observations and



RASHTRIYA RAKSHA UNIVERSITY

(An Institution of National Importance)

Pioneering National Security and Police University of India

recommendations in the Third, Fourth, and Fifth Sessions of AHC. Since the Sixth Session calls for elaborative discussion on the draft text of the conventions; RRU reiterates its complements towards the systematic and well-channelized negotiation processes of the AHC. Such sessions allow academic institutions like ours to contribute to the cause.

Chapter II

Criminalization

- ❖ It is of paramount importance to classify crimes that are committed using Information and Communications Technologies (ICTs). The development of international model provisions on the criminalization of core cybercrime acts, to support States in eliminating safe havens through the adoption of common offence elements is the need of the hour.
- ❖ The provisions could maintain the approach of existing instruments regarding offences against the confidentiality, integrity and accessibility of computer systems and data and could also cover 'conventional' offences perpetrated or facilitated by the use of ICTs.
- ❖ In furtherance of the same, each State party shall adopt such legislative and other measures as are necessary, as provided in the following points, to establish as an offence or its equivalent clauses under its domestic law.
- ❖ Thus, we are of the opinion that the original text of the convention depicting the role of each State Party to adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally is appropriate.



Chapter V

International cooperation

Article 35. General principles of international cooperation

- ❖ The original text document that demarcates States Parties to cooperate by the provisions of this Convention, as well as other applicable international instruments on international cooperation in criminal matters, and domestic laws, for investigations, prosecutions and judicial proceedings concerning offences is a welcome step and has the potential to bolster International Cooperation in true sense. However, connected articles are open to discussion.

Article 40. General principles and procedures relating to mutual legal assistance

- ❖ We are of the opinion that text on mutual legal assistance in investigations, prosecutions and judicial proceedings and for the collection of evidence in electronic form of offences is appropriate. However, considering the potential of the same, the provisions of this article shall not affect the obligations of the requesting and requested State Party under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, in respect of mutual legal assistance between requesting and requested State Parties.

Article 44. Mutual legal assistance in accessing stored [computer data] [digital information]

- ❖ It ought to be considered that a State Party that requires dual criminality as a condition for responding to a request for mutual legal assistance for access to stored [computer data] [digital information] may, in respect of offences other than those established by this Convention, reserve the right to refuse the request for access to stored [computer data] [digital information] where it has reasons to believe that the condition of dual criminality could not be fulfilled.



RASHTRIYA RAKSHA UNIVERSITY

(An Institution of National Importance)

Pioneering National Security and Police University of India

Chapter VII

Technical assistance and information exchange

Article 54. Technical assistance and capacity-building

- ❖ We appreciate the inclusion of such provisions within the original text of the convention. However, we highlight the fact that the state parties while providing technical assistance, training, and capacity-building ought to consider the needs of developing countries of the world.

Conclusion

- ❖ The ongoing elaboration process is an opportunity to align the legal, policy, and operational levels to address the criminal use of ICTs more effectively.
- ❖ RRU firmly believes in the concept of One Earth, One Family, and One Future. In light of the same, RRU is keen on providing holistic assistance, training, research, education, extension, and awareness, facilitating capacity building in the area of fighting against cybercrime and strengthening the entire domain of cyber security.

[The submission is made without prejudice to any future position/submission that the Republic of India may take/make during the course of future deliberations/negotiations of this convention in the informal sessions or substantive sessions of the Ad Hoc Committee.]
