

Review Mechanism UNTOC: Definition of transnational crime

The issue of definition of transnational crime is seen as an important point in explanation and establishing a legal framework covering element of transnational crimes. The objective is to point out ambiguous definition of transnational crime, organized crime and international crime.

The definition of transnational crime is rather overlaps with organized crime which is often broadly defined which is the nature of the mafia gang. In the past, transnational crimes were often perceived as organized crimes. Due to the definition of transnational crimes committed across borders between states. This requires planning, preparation, and networking. However, nowadays information technology and internet media have played an important role in people's livelihood. Technology is used to commit crimes without the need to act as a group. Also, the various information technology networks that now exist allow the criminals multiple avenues of opportunity. For example, using computer viruses which may hack into or disable a system. This is a criminal offense that is done across borders that violates security and order. Thus, organized crime is a form of transnational crime.

However, although the definitions are divided between transnational crime and organized crime, It seems quite clear that organized crime is a matter of the individual and the structure of the group in which it is committed, whereas transnational crimes are cross border crimes.

But in practice, definitions in the context of international law and domestic law are ambiguous and overlapping definitions. To understand the objectives of international law and domestic law aimed at prevention and suppression of both in the form of organized crime and transnational crimes, such as in Thailand, the definitions of the National Security Council Policy Committee and the Royal Thai Police, which define transnational crimes with elements of organized crime as well.

In addition to the overlapping definitions of organized crime and transnational crime, The definition has also been criticized by academics as it should not be limited to cross-border offenses.

Therefore, transnational crime should be viewed from the dimension of Criminological term than in the jurisdiction dimension (jurisdictional term) because in fact transnational crimes, although there are many different types of offenses committed across borders, they may be offenses within one of the borders that affect them across borders, such as cyber crime online fraud, online gambling, etc. Understanding the implications of transnational crime should therefore consider the impact of crime that may occur both nationally and internationally even if the wrongdoing takes place in one of the borders.

In addition, there is a difference between transnational crime and international crime. Although transnational crimes have dimensions of offenses in foreign countries which makes it sound like an international crime. But transnational crime and international crime are different. In other words, international crime is clearly defined under the Rome Statute of the International Criminal Court as a crime against humanity, primarily involving grave violation

of human rights, which acts within a country without the need to act in a country in another country but has implications for the security and order of the international community.

Therefore, the difference between transnational crime and international crime is that international crime focuses on the type and nature of crime, whereas transnational crimes are territorial-focused offenses viewed as offenses or plots that cross borders?

However, there is still debate whether some transnational crimes It could be an international crime as well. This depends on the severity and impact, such as terrorism, human trafficking, corruption, transnational corruption. These should be considered a crime against humanity, for example, the cultural and political environment in some countries that facilitates the corruption of multinational corporations. This is because corruption in that country may be considered normal and there is no legal framework. where corruption leads to poverty, and poverty cutting off people's access to natural resource areas for their livelihood.

In sum, understanding and searching the universal definition and form of transnational crime is also the starting point for international cooperation to direct the formulation of international strategies and policies to prevent it, control and suppression of transnational crimes. With the pattern of crime changing according to the context of society, the study of definition, the pattern and assessment of the impact of such crimes on the national economy and society requires ongoing study, especially raising public awareness as a means of protection at an individual level.

Assoc.Prof. SRISOMBAT CHOKPRAJAKCHAT
Mahidol University, Thailand