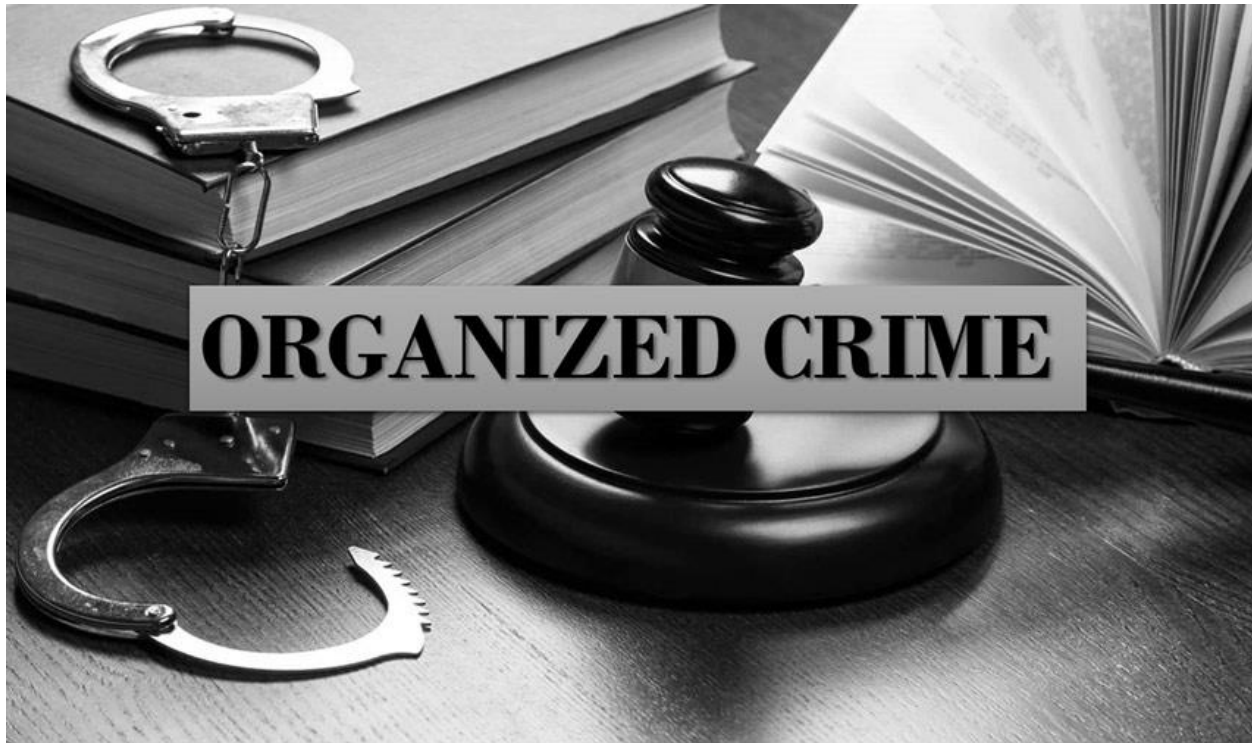


A Bangladesh's Maritime Perspective of Preventing and Fighting Transnational Organized Crimes



“If crime crosses borders, so must law enforcement,” writes Kofi A. Annan, the then UN Secretary-General, in the foreword of the United Nations Convention against Transnational Organized Crime and the protocols thereto in 2004. The United Nations Convention against Transnational Organized Crime (UNTOC) was adopted by General Assembly resolution 55/25 of 15 November 2000. On 12-15 December 2000, the leading international instrument in the fight against Transnational Organized Crime (TOC) was opened for signature by Member States at a High-level Political Conference convened in Palermo, Italy. The Convention entered into force on 29 September 2003. The Convention is supplemented by three Protocols, which target specific areas and manifestations of organized crime. The first protocol is the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children; the second protocol is the Protocol against the Smuggling of Migrants by Land, Sea, and Air; and the third protocol is the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.

Countries must become parties to the Convention before becoming parties to any of the Protocols. In March 2024, the General Assembly declared 15 November the International Day for the Prevention of and Fight against All Forms of TOC to raise awareness of the threats posed by all forms of TOC and enhance international cooperation. It recognized the importance of preventing and fighting against TOC for implementing the 2030 agenda for

Sustainable Development. Hence, 15 November 2024 is the first International Day to be celebrated to prevent and fight against all forms of TOC. The theme for this year, i.e., the maiden celebration, is “Pulling together to push back: United against organized crime.” Bangladesh became a member of the UNCTOC on September 29, 2003. Internalizing the theme, Bangladesh can significantly benefit from celebrating this day, particularly from the UNCTOC and its Protocols to combat TOC along its borders and territorial waters.

Celebration of the International Day for the Prevention of and Fight against All Forms of TOC calls for united global action. The devastating impact of organized crime threatens lives, destabilizes communities, and hinders economic and social development. But despite these challenges, there is hope. This day is a rallying point for action, demonstrating that collective efforts—by governments, the private sector, civil society, and individuals—can achieve real change. TOC is a global non-traditional security threat that involves groups of people who work together to gain power, influence, or money through illegal means. Historically speaking, the non-traditional threats from TOC can trigger traditional security threats. The TOC includes a variety of notorious activities, such as Drug trafficking, Human trafficking, Smuggling of migrants, Money laundering, Trafficking in firearms, Counterfeit goods, Wildlife and Cultural property, Cybercrime, Economic fraud, etc. TOC poses a significant and growing threat to national and international security, with dire implications for public safety, public health, democratic institutions, and economic stability across the globe.

TOC committed at sea is deeply interconnected with various global trade, economic security, and governance aspects. These crimes exploit weaknesses in international legal frameworks, border control mechanisms, and the vast, largely unregulated expanse of the seas and oceans. Below are the vital ways in which transnational organized crimes at sea are connected to broader social, economic, political, and environmental issues: Shipping is a critical element of global trade, with more than 80% of goods traded internationally transported by sea. The symbiotic relations of the criminal organizations exploit this vast system by hiding illicit cargo (e.g., drugs, weapons, contraband goods, etc.) among legitimate shipments or by hijacking vessels for ransom. The high volume of legitimate cargo trans-shipment makes it difficult for authorities to distinguish between legal and illegal shipments.

Many coastal and island nations, particularly in the developing world, have limited capacity to monitor and enforce laws in their Exclusive Economic Zones (EEZs) or high seas. Criminal organizations take advantage of these governance gaps and the inadequacy of the country's Maritime Domain Awareness (MDA) to conduct illegal activities with impunity, such as illegal fishing, drug trafficking, human trafficking, or piracy.

Organized criminal groups often target vulnerable populations in coastal and maritime communities, exploiting poverty, lack of education, and limited job opportunities to recruit people for illegal activities. In some cases, entire industries, like fishing or shipping, can be

taken over by criminal groups, who use these industries as a cover for illicit activities such as human trafficking or drug trafficking, or IUU (Illegal, Unreported, and Unregulated) fishing.

The Bay of Bengal (BoB) section of the Indian Ocean Region (IOR), a strategically crucial maritime expanse, faces significant challenges related to TOC. The impact of TOC's implications affects Bangladesh and other BoB littorals. Critical crimes in the region include drug trafficking, IUU fishing, human trafficking, piracy, and smuggling. With its extensive irregular coastline striding over and connecting major maritime trade routes and proximity to the "golden triangle" and "golden crescent," Bangladesh is preferable as a transit point and destination for various TOC activities.

Apart from the illegal migration through the sea of forcibly displaced Myanmar nationals, otherwise known as Rohingyas, sheltered in Bangladesh on humanitarian grounds, drug trafficking is a case in point—particularly the smuggling of methamphetamine and heroin from Myanmar and Thailand through the BoB. In Bangladesh, methamphetamine is an illegal substance that is often consumed in the form of Yaba. Experts' opinion is that Yaba is a drug made by combining methamphetamine and caffeine. They are sold as colorful pills. There are reportedly three forms of Yaba, namely R-7, Controller, and Champa, which affect Bangladesh's internal security and public health.

The BoB region is also prone to IUU fishing, often conducted by foreign trawlers from India and Thailand. The IUU fishing depletes marine resources and damages ecosystems. Additionally, human trafficking networks exploit vulnerable populations in Bangladesh, especially the Rohingyas, where victims are trafficked via sea routes to Southeast Asia, even sometimes with a false promise to land them on Australian shores. However, in most cases, they are deceived by landing on some of Bangladesh's island coasts or in Thailand, Malaysia, or Indonesia, where they endure forced labor, specifically in the fishing or drug industry.

While piracy incidents, in the true sense of the term, are almost absent compared to other regions, thanks to the Bangladesh Navy (BN) supported by the Bangladesh Coast Guard's (BCG) vigilance, there are some reported armed robberies on merchant vessels in the Bay. Unfortunately, some reporters are biased to report such armed robbery as piracy, which at times is equivalent to ill motives to tarnish the image of Bangladesh's port security. Moreover, the Sundarbans, a UNESCO World Heritage site, the most extensive mangrove on the planet, faces environmental degradation due to IUU fishing, illegal logging, and the smuggling of endangered species.

Given the notoriety and complexity, a single nation's actions cannot eliminate the TOC. Despite BN's patriotic initiative to patrol 24/7/365, supported by BCG, combating them is challenging for various reasons, like vast oceanic expanse, resource limitations, law enforcement, and corruption, including inadequate regional cooperating efforts like MDA. Addressing these TOC emanating from the BoB requires robust national political commitments to improve maritime law enforcement capabilities, prudent maritime

policies, and resilient regional cooperation. However, the third United Nations Convention on the Law of the Sea (UNCLOS III) provides Bangladesh with critical legal tools to address TOC in the BoB. Key provisions that support these efforts include:

UNCLOS III (Part V, Articles 55–75) grants Bangladesh exclusive rights to regulate and manage its EEZ, extending 200 nautical miles from its coast. Article 73 provides Bangladesh with rights and jurisdiction to act against illicit activities such as IUU fishing, drug trafficking, and smuggling within its EEZ.

UNCLOS III (Part VII, Articles 99–111) emphasizes coastal states' rights and jurisdictions where international cooperation is also needed to combat piracy, drug trafficking, human trafficking, and illegal smuggling at sea. Article 111 allows Bangladesh to exercise the right of “hot pursuit,” enabling it to pursue vessels engaged in illegal activities from its internal waters to EEZ continental shelf. Suppression of illicit traffic in narcotic drugs or psychotropic substances, as mentioned in Article 108, mandates cooperation among states at sea.

UNCLOS III (Part XII, Articles 192–201) also obligates states to protect the marine environment and prevent pollution. Bangladesh can enforce environmental laws to curb IUU fishing and wildlife trafficking, helping to mitigate organized crimes linked to exploiting marine resources and endangered species in the BoB.

Bangladesh can use UNC TO provisions to strengthen its coordination with regional and international partners, improving the monitoring of trafficking routes and dismantling transnational criminal networks. By intertwining the law of the land with UNCTOC protocols and UNCLOS III, Bangladesh can enhance its legal authority for enforcement to combat TOC at sea, ensure better control over its maritime zones, and benefit from various sea resources. Strengthening regional law enforcement cooperation to address TOC effectively will likely give success and economic, diplomatic, and political dividends.

The Protocol on Trafficking in Persons can help Bangladesh strengthen its laws, improve victim protection, and enhance cooperation with neighboring countries like Myanmar and India to address human trafficking issues. Similarly, the Protocol on Migrant Smuggling supports Bangladesh in bolstering border security, improving immigration controls, and disrupting smuggling networks, especially those using Bangladesh as a transit point. The Protocol on Firearms aids Bangladesh in controlling the illicit trade of weapons, enhancing customs enforcement to reduce armed violence and insurgent activities. Moreover, the Palermo Convention promotes regional cooperation through information sharing and joint law enforcement efforts, enabling Bangladesh to tackle crimes such as drug trafficking, smuggling, and organized crime more effectively.

As stated above, legal experts can dwell into aligning national legal frameworks with UNCLOS III provisions, and UNCTOC protocols to ensure more effective prosecutions. In coordination with and support from international partners, the government needs to provide more funds for maritime law enforcement agencies, particularly BN and BCG, to enhance

capacity. BN should be equipped with such marine assets so that the maritime national interest, among other things, the national flag carriers, is protected against TOC wherever they are likely to take place: beyond BoB, in the north Indian Ocean, in the Horn of Africa, or the Mediterranean. BCG needs capacity enhancement to fight TOC in the coastal areas to allow BN to concentrate on high-seas TOC beyond the BoB.

As discussed, regional cooperation to fight TOC effectively in the maritime domain of Bangladesh's interest is an increasingly vital area of focus due to the strategic importance of the Indian Ocean and BoB for global trade, energy routes, and regional stability. Geopolitical significance is influenced by security challenges, i.e., TOC, for instance, Piracy, especially off the coast of Somalia, has posed significant threats to shipping lanes. IUU fishing, human trafficking, climate change, and maritime terrorism are among growing concerns.

Several Regional Frameworks and Initiatives focus on maritime security in the IOR. An overview of the critical entities: The Indian Ocean Rim Association (IORA) promotes regional economic cooperation and collaboration on maritime security, such as maritime safety, security, trade, sustainable development, and disaster risk reduction. BIMSTEC (Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation) facilitates cooperation among South and Southeast Asian countries bordering the BoB and focuses on trade, security, disaster management, and maritime security initiatives. Indian Ocean Naval Symposium (IONS) to enhance cooperation and interoperability among navies in the IOR to focus on maritime security, counter-piracy, and humanitarian assistance. Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) focuses on combating piracy and armed robbery in the Asian maritime domain, including information sharing, capacity building, and joint operations. The Commonwealth of Nations has significant maritime interests with focus areas such as collaborative efforts on maritime governance and security issues, especially among member states with IOR coastlines. Indian Ocean Tuna Commission (IOTC) focuses on conserving and managing tuna and tuna-like species in the Indian Ocean. IOTC contributes to sustainable fisheries management, a maritime security component. Regional Fisheries Management Organizations (RFMOs) operate in the Indian Ocean to manage fisheries resources sustainably, indirectly supporting maritime security by addressing IUU fishing and resource management.

TOC also indirectly influences environmental issues, including pollution and climate change impacts on marine ecosystems. Strict observance of the UNCTOC to cooperate in maritime environmental protection can foster stronger ties between nations. As stated above, strengthening regional institutions and implementing the adopted frameworks will be essential for addressing evolving TOC. Fighting TOC in the IOR, mainly the BoB, necessitates a collaborative approach among nations within the frameworks of UNCTOC to address shared challenges while balancing geopolitical interests. Mutual trust and enhanced cooperation can improve stability, benefiting all countries involved.

Lest we forget, international criminal groups involved in TOCare rapidly embracing today's globalized economy and sophisticated technology. On the contrary, collective international efforts to combat them have remained fragmented. The UNCTOC, if effectively implemented, can offer a new instrument to address the scourge of this global problem. With enhanced international cooperation, coastal and landlocked countries can have a tangible impact on the ability of international criminal groups to operate successfully, and in the words of Mr. Kofi A. Annan, "help citizens everywhere in their often bitter struggle for safety and dignity in their homes and communities."

Writer: Commodore Syed Misbah Uddin Ahmad, (C), NUP, ndc, afwc, psc, BN (retd), Director General, Bangladesh Institute of Maritime Research and Development (BIMRAD). Email: misbah28686@gmail.com

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