
ECONOMIC COOPERATION ORGANIZATION ANTI DRUG ACTIVITIES AND LACK OF LAW HARMONIZATION

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ABSTRACT: In order to combat drug trafficking, regional cooperation among countries seems inevitable. In addition to cooperation in the area of drugs control, there is a pressing need for the institutionalization of a regional framework for law enforcement cooperation to deal with issues related to transnational crime. Such cooperation must be organized in the form of an effective mechanism based on specified international and regional agreements and those identified by individual Member States. Drug trafficking in ECO poses serious threats to public health, security and economy of the region. Consequently, the issue has gained immense importance within the Organization's framework of activities. As the production and use of illicit drugs continue to imperil the region's socio-economic progress, the ECO Member States have taken steps to strengthen their respective national drug control systems. By having brief look at ECO member's anti-drug law, it can be seen that there is difference between ECO member anti-drugs law and their criminal justice system. Despite all ECO members ratified international drug convention such as 1988 drug convention – which try to make coordinated approach to fight with drug trafficking – ECO still there is some gaps between ECO members drug policy and need for harmonized system is clearly egregious. This paper seeks to point out Lack of harmonization in the Eco Area with a Critical Analysis method and finally come up with some suggestions on the issue.

Maximum of 250 words. (Century Gothic, font 9)

KEYWORDS: *Drug trafficking, ECO, Regional cooperation, Harmonization, Anti-drugs law*

INTRODUCTION:

The impact of globalization has reached every corner of the globe. In the context of the globalization movement that affects all sectors; regional cooperation has become increasingly important. Experience collected by UNDP from all over the world shows that regional cooperation is best achieved through strong ownership by participating countries to ensure commitment and active engagement and the right choice of partner institutions to maximize the results (UNDP, 2013). Drug trafficking is one of the important issues which cooperation among countries is necessary. In addition to cooperation in the area of drugs control, there is a pressing need for the institutionalization of a regional framework for law enforcement cooperation to deal with issues related to transnational crime (Mc farlane, 2005). Such cooperation must be organized in the form of an effective mechanism based on specified international and regional agreements and those identified by individual Member States (Maroofi, 2010).

ECONOMIC COOPERATION ORGANIZATION (ECO):

Economic Cooperation Organization (ECO) is an inter-governmental regional organization which was originally established as Regional Cooperation for Development (RCD) in 1964 by Iran, Pakistan and Turkey for promoting sustainable socio-economic development of the Member States (ECO, 2013). It was renamed ECO in 1985 and in 1992 the organization was expanded to include Afghanistan, Azerbaijan, Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan and Uzbekistan (ECO, 2013). ECO is the biggest economic association among Islamic countries and is a connection spot between Asia, Europe and Africa which make ECO one of the most strategic spot in the world. ECO region, encompassing a huge landmass with vast minerals and human resources (8 million square kilometers land with 400 million population) (Demirezen, 2009), and comprises one of the richest parts of the world, full of complementarities and potential in terms of the opportunities offered by oil and gas and mineral resources, hydro-electric power, and population dynamics.

The Economic Cooperation Organization aims at serving as an instrument for promoting the economic and social development of its membership. Trade, Transportation, Communications, Agriculture, Energy and Human Resources are its priority sectors. These objectives of the organization can only be achieved through the secured and peaceful atmosphere which has been negatively affected by rampant drug-trafficking and allied crimes in the region. The Organization engaged Member States in intensifying cooperation in priority areas with firmly laid

foundations. ECO is marching ahead to foster regional ties for creation of a Free Trade Area in the region by year 2015 (Maroofi, 2010). Safer and secure environment can guarantee the pace of ECO progress and achievements of its goals. Otherwise, free trade area can make ECO area more vulnerable place for formation of transnational criminal organization which can traffic illicit drug much more easier and can traffic illicit drugs on the shadow of licit transportation. It can be seen that dealing with the issues of security and its aspects is among the most critical challenges confronting the ECO members (Shoji, 2011). It is vital to overcome barriers and challenges such as transnational organized crimes, drug production and its trafficking, illegal immigration and money-laundering.

ECO AND DRUG TRAFFICKING:

Production, trafficking and use of illicit drugs pose serious threats to public health, security and economy of the region (IPI, 2009). Consequently, the issue has gained immense importance within the Organization's framework of activities. As the production and use of illicit drugs continue to imperil the region's socio-economic progress, the ECO Member States have taken steps to strengthen their respective national drug control systems. Drug cartels undermine governments and corrupt legitimate business, thus affecting adversely the overall economic and security situation not only confined to a particular country but with spillover effects and direct bearing on a larger scale in a whole region. The incentive mechanism behind the drug traffic is very simple: 1 kilogram of heroin could be purchased on the Afghan/Tajik border, or on the Afghan/Iran border, for roughly 1,000 US dollars, and sold in Europe for 200,000 US dollars (ECO). Considering that a large portion of the globally laundered money at US\$ 600 billion per year is transacted in the ECO region, the issue gains more importance (ECO).

New drug trafficking routes are emerging through the territories of ECO Member Countries, particularly for transit traffic in drugs via Central Asia to Europe. There is a rapid spread of illicit drug trafficking in five Central Asian Member States (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan) (UNODC, 2013). Owing to the ready availability of opium and locally manufactured acetic anhydride, it is suspected that heroin is also being manufactured in illicit laboratories in some Central Asian States.

Due to the increased drug trafficking in the ECO region, the highest rates of addiction in the world can, unfortunately, be found today in some of the ECO countries. Based on the official data, it is estimated that more than 6, 5 million people regularly abuse drugs in the entire ECO region (DCCU, 1999). However, the real number of drug abusers in the region is strongly suspected to be much higher. The most serious drug abuse trend in recent years has been the rise in the use of injected drugs, primarily opiates, and the associated rapid spread of HIV/AIDS. Intravenous drug use has become the major vector for the spread of the disease. The ECO countries account for over 90% of the global seizures of Afghan opiates (ECO). To deal with this problem, ECO member states need to have multilateral cooperation. No one country can handle this menace only by domestic effort. ECO set an agenda of supporting coordinated efforts to eradicate forces that cast a negative shadow on the development of regional economies. These negative forces, if left unchallenged will not only endanger peace, stability and security but adversely affect ECO progress towards the achievement of our common socio-economic goals (Maroofi, 2010). It is obvious that ECO members suffering from inharmoniousness legal systems and strategy to fight with narcotic drugs and this discord has major effect in ECO members cooperation against drug trafficking.

WHAT IS LAW HARMONIZATION?

At present, while there is no lawful and legalized definition for the concepts of criminal law harmonization, it is broadly employed in the political as well as scientific debates (Tadic, 2002). However, while reviewing current legal literature regarding criminal justice systems harmonization, there is a possibility to extract a simple, basic meaning of this term. In this vein, Tadic and Jouston sum up "the elimination of disparities between the criminal justice systems of different states" (Tadic, 2002). It is understood that the main aspect of this basic meaning can be the elimination and removal of disparities or discrepancies.

As Calderoni (2010) claims, there is a differences and contrast between the concepts of harmonization commonly which is adopted in the lawful sector, which is the elimination of differences, as well as its meaning in terms of the natural language, that is, the elimination of frictions. Concerning the context of law, harmonization is often misconceived and is accordingly employed in a sense which significantly differs from its common meaning, because its aim is to eliminate differences rather than eliminating frictions amongst diverse legal systems (Tadic, 2002). More specifically, criminal legislation harmonization should not be eliminating differences

amongst legal systems, nevertheless, rather removing frictions to make various systems more reliable and consistent among them (Nelles, 2002).

Changing the focus from the differences elimination to frictions elimination is an essential point. This reinterprets the harmonization concept and links it to its natural meaning and concept. It provides us with guidelines and principles for an effective and operative usage of criminal law harmonization. Hence, harmonization must intervene merely when frictions do exist and require to be eliminated (Calderoni, 2010). Such idea should help policy makers when they decide whether to make harmonization in regard to criminal law. Likewise evidence of frictions needs to support and assist the decision on harmonizing legislation. Also, scientific research through operational experience associated with law enforcement agencies could provide this necessary evidence.

WHY ECO NEED HARMONIZATION?

By taking a brief look at anti-drug law of ECO member countries, it can be observed that there is discrepancies between ECO member countries in terms of anti-drugs law along with their system of criminal justice (DCCU, 2014). Although all ECO member countries have ratified regional drug convention like 1988 drug convention, trying to make coordinated and harmonized approach to combat with drug trafficking issue, ECO member countries still have some gaps in terms of drug policy and they need a harmonized system to bridge the gap. Taking into account all such deficiencies and problems, the main question can be: 'is the harmonization of criminal law procedure in ECO member countries required? However, a closer look, displays that reciprocal approximation of the dissimilar national systems appears to be inevitable, or in any case in the long term (Husabø & Johannes & Strandbakken, 2005). Possibly not the most significant reason, however, a valid, favorable argument, is the requirement for bridging gaps in national, local legislation that can be exploited by criminal offenders (Husabø & Johannes & Strandbakken, 2005). Using the free movements of goods policy as well as free movements of people policy by ECO members, (ECO, 2005) the criminal activities performed cross border do not face many obstacles. Consequently, drug traffickers may withdraw to these countries in which the corresponding conduct cannot constitute any kind of offence or at least it will not be prosecuted in practice, accordingly, the criminals will use this region as safe haven intended for their drug trafficking activities in other neighboring countries. A proper example can be the tough and strong criminal policy in Iran that has serious punishment for the criminals and drug

traffickers (Iran Antidrug Law, 1997) ; thus, drug traffickers can take advantage of the other countries such as Afghanistan as a secure and safe haven to supply the Iran market in terms of drugs and hide themselves from being prosecuted by Iranian strong judicial system. Undoubtedly, those differences can cause irritations as well as tensions between the neighboring countries together with their law enforcement establishments and authorities (Beehner, 2006).

More significantly, nevertheless, the multilateral cooperation associated to the ECO countries' law enforcement authorities is not able to perform appropriately without harmonization. When agencies from diverse legal systems with different structures are required work together, they must deal with several frictions (Husabø & Johannes & Strandbakken, 2005). Prior to initiation of joint work through the countries law enforcement agencies, each country usually takes efforts to discover if the corresponding conduct comprises an act of crime in their own country and also if the necessary measures are admissible and allowable under the countries own law (Husabø & Johannes & Strandbakken, 2005). Accordingly, the agency of the requesting country then must scrutinize if the transferred and conveyed evidence has been taken as stated by the requirements of the country legal system to make sure that its courts considers the evidence as acceptable and admissible. Such reciprocal investigations frequently take great deal of time and money. A worse situation can take place when the evidence admissibility must be denied or because of legal uncertainties appears not to be clear and consequently its admission would create a significant risk intended for the country's court of receiving the judgment that the court of appeal reverses (Husabø & Johannes & Strandbakken, 2005). A former deputy assistant secretary of state for narcotics states : *"Get yourself into an international case that involves a drug cartel, an arms-smuggling ring, a bank fraud, you have got hundreds of thousands if not millions of documents in dozens of languages with many, many witnesses, many of who are from different cultures and different backgrounds. And now you take this mess into court and you try to prosecute . . . the jury is hopelessly, totally lost and confused.... So, our legal system is really not suited for complicated international crime"* (Kerry, 1997). It is argued that the merely practical way to evade such problems is the reciprocal law approximation and harmonization in ECO member countries. As a result, there will be no need for expensive pre-examinations, and simply then the evidence admissibility coming from another member country will be guaranteed since the laws which are governing the investigation and taking the evidence are almost the same or nonetheless very similar (Husabø & Johannes & Strandbakken, 2005).

Moreover, in many contemporary cases it has been observed that there is the classical situation where one country, to perform a national, local criminal process, requires the assistance of the neighboring country. Now there are cases of cross-border criminal activities, in which the prosecution process from the commencement can only be carried out via the coordinated, harmonized teamwork related to several countries' law enforcement authorities (Husabø & Johannes & Strandbakken, 2005). When a crowd of criminals outspreads their criminal activities over diverse national territories, accordingly a common decision must be made in which member country the case needs to be issued and brought to court. However, the examination along with taking of evidence must be made known in numerous countries simultaneously coordinately. Thus, it will frequently be indispensable to direct the international examination for one, which must have the power of issuing E.G. capture and search warrants which are valid, lawful in all member countries. To adjudicate the offenders, the evidence admissibility collected in the other member countries do not have to be jeopardized by various legal requirements. Lastly, the agencies of law enforcement need not to have the opportunity in order to exploit differences and consequently reduce the rights of the defendant by choosing the country which has lowest standard of jurisdiction (Husabø & Johannes & Strandbakken, 2005). All such requirements can be satisfied merely if the applicable criminal laws and rules as well as procedure are in nature the same and equal in all member countries. As a result, mutual trust can grow that is the essential basis for performing effective cooperation (Harmonization and/or Pluralism In International Criminal Law 8 April 2014). For example, when Iranian court is being convinced that in a neighboring country like Pakistan or Afghanistan the applicable offences together with general rules associated with criminal liability are comparatively the same as the rules in Iran. Also, they need to make sure that sentencing levels appear to be quite similar, to be ready in order to hand over an Iranian drug lord to an Afghani or Pakistani court to facilitate and ease the conviction of such drug lord for the crime of drug trafficking he has conducted in Pakistan or Afghanistan.

CONCLUSION:

The transnational nature of the criminal organizations operating in the illicit drug business coupled with the impossible task of sealing all borders around the major illicit narcotics producing areas require the setting up of effective anti-narcotic cooperation mechanisms at the regional level. In this context, all ECO Member States should recognize the need for strengthening their operational cooperation links in the fight against the narcotic threat with a

view to give a regional response to a regional threat. From the practical viewpoint, undoubtedly, the differences between ECO member countries in terms of legal systems as well as drug policy must be addressed if the regional countries seek for an area which has security in conjunction with sustainable development. Therefore, "Multilateral responses could merely work when each country makes sacrifices proportionate with those of other countries."¹ (Wil-Liams & Savona, 1996).

Investigation and prosecution of transnational crimes require a high level of cooperation and trust. To ensure the successful prosecution of transnational criminals, mechanisms should be established to pave the way for the constitution of joint investigative teams to gather evidences, conduct arrest, search and seizure and look for witnesses in the territory of affected states. This mission will not be attained unless; a harmonized legal system is realized by ECO states. Although the region has taken several major steps forward, more time is needed for the parameters defined by its obvious complementarities to be attained.

As Dongwook Chun (2011) says "the journey to true harmonization is a long and twisted way". However despite this struggle, the only way for ECO states to obtain their objectives, they must recognize that drug trafficking is a regional issue that needs the cooperation of all countries. This notion will direct ECO members to harmonize their regulations.

¹ See Report Of The Secretary-General: Implementation Of The G.A. Res. 49/150 On The Na-Ples Political Declaration And Global Action Plan Against Organized Transnational Crime, In Wil-Liams & Savona, Supra Note 3, At 178, 1996.

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