



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL TEAM

Raju Narayana Swamy (IAS) Indian Administrative Service officer



Dr. Raju Narayana Swamy popularly known as Kerala's Anti-Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala. He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University. He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and

a professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB, LLM degrees from Banaras Hindu University & PHD from university of Kota. He has successfully completed UGC sponsored M.R.P for the work in the Ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; PH.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St. Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing PH.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Inter-country adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.

Dr. Rinu Saraswat



Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, PH.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, PH.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University. More than 25 Publications in renowned National and International Journals and has authored a Text book on CR.P.C and Juvenile Delinquency law.



Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); PH.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

INTERAGENCY CHALLENGES IN COMBATING TRANSNATIONAL CRIMES: A NEPALESE PERSPECTIVE

AUTHORED BY - DR. RAMESH PARAJULI¹,
RAJAN ADHIKARI² & SAMIKSHYA MISHRA³

General Background

On Monday November 7 of the year 2022, U.S. Attorney's Office in California posted a press release. The press release discussed the sentencing order and restitution order of US \$1,732 imposed by U.S. District Judge Otis D. Wright II. Ramon Olorunwa Abbas, a 40-year-old Nigerian national who was arrested in Dubai, United Arab Emirates, and was the subject of the order.⁴ In January 2019, Abbas had conspired with Ghaleb Alaumary, of Ontario, Canada, to use account information for banks in Romania and Bulgaria to launder approximately US \$14.7 million that had been stolen from a bank in Malta. The money was supposed to go to the North Korean government, claims the United States, which accused North Korean hackers of carrying out the bank cyber-heist in Malta. In May of the same year, Abbas and Alaumary came together once again to conspire to launder millions of pounds that had been taken from a British corporation and a professional soccer team in the United Kingdom. Abbas sent Alaumary information on a Mexican bank account in relation to the plan. At another instance, he deceitfully persuaded a legal firm in New York to move about \$922,857 to an account under the control of a co-conspirator in October.⁵

These instances are but a handful of the numerous crimes that Abbas had planned and executed. Nevertheless, we have already covered a number of jurisdictions in telling his story, including

¹ Assistant Professor at Faculty of Law, Tribhuvan University, Nepal.

² AIG, Nepal Police with LLM in Human Rights and Justice

³ Under Secretary at Government of Nepal with LLM in Criminal Law and Justice

⁴ 'Central District of California | Nigerian Man Sentenced to Over 11 Years in Federal Prison for Conspiring to Launder Tens of Millions of Dollars from Online Scams | United States Department of Justice' (7 November 2022) <<https://www.justice.gov/usao-cdca/pr/nigerian-man-sentenced-over-11-years-federal-prison-conspiring-launder-tens-millions>> accessed 14 September 2025.

⁵ 'Central District of California | International Money Launderer Sentenced to over 11 Years in Federal Prison for Laundering Millions from Cyber Crime Schemes | United States Department of Justice' (8 September 2021) <<https://www.justice.gov/usao-cdca/pr/international-money-launderer-sentenced-over-11-years-federal-prison-laundering>> accessed 14 September 2025; Idoreyin Eyo and Glory Charles Okebugwu, 'Analysis of Fundamental Challenges in the Combat of Transnational Crimes' (2024) VIII IJRISS 1297.

the US, Canada, the UAE, Romania, Bulgaria, Malta, Mexico, and the UK. We live in a world where exist several other Abbas exist. This geographic dispersal represents the essence of transnational crime, which is that it crosses national boundaries, takes advantage of gaps in regulatory frameworks, and presents significant obstacles to global law enforcement. The complexity and worldwide scope of these crimes underscore the pressing necessity for concerted international responses.

Fighting transnational crime is not just a judicial issue. It is a matter of national and regional security for nations like Nepal, which are strategically situated between China and India, have limited resources, and are becoming more interconnected with international institutions.

In light of this, this paper aims to analyse the particular difficulties Nepal encounters in preventing and punishing transnational crime, paying special attention to institutional capacity, legal frameworks, interagency coordination, and cross-border collaboration while drawing on global experiences. This study attempts to fill in the gaps, investigate policy solutions, and provide suggestions to improve Nepal's capacity to successfully handle the escalating threat of transnational crime by examining these topics from a Nepalese point of view.

Understanding Transnational Crimes

Transnational crime refers to the illegal activities of individuals or organizations whose operation or effects or both transcend national borders. Generally, the primary objectives are to maximize economic gains or pursue political agendas.⁶ Transnational crimes are challenging to govern because they operate across numerous territories, unlike domestic crimes, which are under the jurisdiction of a single state. These crimes make use of the differences in the governance structures, enforcement capabilities, and legal systems of various nations.⁷ Transnational crime creates long-term governance issues for developing nations like Nepal by undermining economic stability, eroding public trust in public institutions, and undermining national security and the rule of law.

The spectrum of transnational crimes is broad and continually evolving. While drug trafficking and related offenses remain among the most visible, they represent only a fraction of the total

⁶ Dipesh Kumar K.C., 'Cross-Border Crime and Its Security Concerns in Nepal' (2019) 2 J APF Command & Staff Coll 21; Eyo and Okebugwu (n 2).

⁷ Eyo and Okebugwu (n 2).

range of such activities.⁸ Other examples of transnational crimes include flesh trade, money laundering, illegal arms trade, smuggling of cultural artifacts, terrorism, intellectual property theft, illegal wildlife trade, organ trafficking, aircraft hijacking, maritime piracy, and counterfeiting.⁹ Newer forms of transnational crime such as cybercrime, digital identity theft, the sale of fraudulent medicines, and bioterrorism through the deliberate creation or spread of diseases, pose additional and increasingly complex challenges.¹⁰

Since there are many different factors that influence cross-border criminal activity, transnational crimes can be broadly divided into three categories: social, political, and economic.¹¹ Geography significantly shapes these processes in the case of Nepal. Nepal's porous borders, complicated topography, and cross-cultural ties make it especially vulnerable to politically motivated transnational crimes given its location between two major economies of the world – China and India.¹² Politically motivated networks are best represented by terrorist groups, which use instability and cross-border ties to further their ideological goals.¹³ The desire for financial gain or personal benefit also motivates a lot of transnational crimes, such as organized fraud, smuggling, and illegal trafficking.

Concrete examples of these crimes are: women trafficked for sexual exploitation from Nepal, Southeast Asia, or the former Soviet Union; migrant smuggling from Nepal to the United States via perilous routes; migrant workers exploited in sweatshops or the agricultural industry; widespread credit card and banking fraud; firearms smuggled to get around laws; daily goods smuggled to circumvent taxes and customs; and children trafficked through Canada and Mexico for child pornography networks.¹⁴

The Rise of Transnational Crimes

Transnational crime groups exploit weak governance, permeable borders, and feeble law enforcement systems to expand their operations unchallenged. For their survival and

⁸ Kip Schlegel, 'Transnational Crime: Implications for Local Law Enforcement' (2000) 16 *Journal of Contemporary Criminal Justice* 365.

⁹ Temitope Francis Abiodun and Tunde A Abioro, 'Roles And Challenges Of International Criminal Police Organization (Interpol) In Investigation Of Crimes And Maintenance Of Global Security' (2020) 10 *Research Journal of Social Science & Management*; Eyo and Okebugwu (n 2).

¹⁰ Eyo and Okebugwu (n 2).

¹¹ K.C. (n 3).

¹² *ibid.*

¹³ Eyo and Okebugwu (n 2).

¹⁴ Schlegel (n 5).

expansion, these groups usually look for places with violence, instability, and a lack of effective regulatory frameworks. In many cases, insecure political and economic contexts have contributed to an increase in international crimes. The power and money that transnational organized crime groups create either directly or indirectly help the governments where they are based. This relationship can translate into varied forms. At times, organized criminal networks finance political actors in exchange for protection from law enforcement scrutiny; at other times, political powers fund or facilitate these networks to pursue their own strategic or economic objectives through illicit means. This mutually beneficial bond fosters a culture of impunity, whereby State apparatuses may shield criminal actors from prosecution and punishment.¹⁵ As a result, laws, regulatory frameworks and governmental policies are purposefully crafted or weakened to align with the interests of these criminal entities,¹⁶ undermining the rule of law and impeding both domestic enforcement and international cooperation efforts.

In addition, the swift development of communication, transportation, and financial technologies has added a new dimension to the challenge.¹⁷ The way people, companies, and nations interact has changed dramatically in recent years due to developments in communication and transportation. Because of this, the world economy has grown more intertwined, with ties across national boundaries in almost every sphere of life. From the smallest personal transactions to large-scale national projects, from cross-country marriages to multilateral investment projects, there is wider and more frequent transnational interactions and interdependence. The national borders have become less prominent with widespread technological innovations, cross-country financial markets and consequently, increased flow of people and money. This interconnectivity, while encouraging growth, development and collaboration, has also involuntarily contributed to the rise of transnational crimes.¹⁸ The same networks and technologies that make human life easier also make it easier for criminals to commit crime that transcends borders.¹⁹ The shift has made it easier for criminals to operate across jurisdictions seamlessly, making their crimes more sophisticated and more challenging to prevent, investigate and prosecute.

¹⁵ Louise Shelley, 'The Unholy Trinity: Transnational Crime, Corruption, and Terrorism' (2005) 11 *The Brown Journal of World Affairs* 101.

¹⁶ Eyo and Okebugwu (n 2).

¹⁷ *ibid*; Schlegel (n 5).

¹⁸ Eyo and Okebugwu (n 2).

¹⁹ James O Finckenauer, 'Meeting the Challenge of Transnational Crime' [2000] *National Institute of Justice Journal* <<https://www.ojp.gov/pdffiles1/jr000244b.pdf>> accessed 14 September 2025.

In other words, technical development has changed the face of international crime in the modern era by enabling criminal organizations to increase their complexity and reach while simultaneously making identification, prosecution, and disruption attempts more difficult. But the advantages of technological advancement are not limited to criminals. By using cutting-edge instruments and techniques in criminal investigation, prosecution, and evidence analysis, law enforcement organizations, prosecutors, and court systems have also adjusted, redefining strategies for combating crime in the contemporary era.

Transnational Crimes in Nepal

Nepal's geographical position, socio-economic conditions, and porous borders²⁰ make it highly vulnerable to various forms of transnational crime. Among the most prevalent are human trafficking, drug trafficking, small arms trafficking, wildlife trafficking, and gold smuggling. Human traffickers exploit domestic and foreign victims in Nepal, and also Nepali victims abroad. Men, women, and children are subjected to forced labour and sex trafficking, including child trafficking, debt bondage, and the worst forms of child labour. Forced labour and sex trafficking, including debt bondage, child trafficking, and the most severe types of child labour, affect men, women, and children. According to National Human Rights Council estimates from 2019, 1.5 million Nepalis were identified to be at risk of being victims of human trafficking.²¹ According to observers, many Nepalis, especially women and girls²², are more susceptible to human trafficking as a result of caste-based discrimination, child sexual abuse, gender-based violence, and a lack of economic possibilities. The trafficking of girls and women from Nepal into India for the main purpose of prostitution is argued to be the busiest "slave traffic" of such kind.²³ Traffickers still prey on young, education deprived Nepalis from minority and marginalised castes and ethnic groups that have historically had few economic options. They entice victims with promises of employment. Forced labour and sex trafficking risks are especially high for unregistered migrant laborers, such as Nepalis who cross India's open border to reach third-country destinations. Social media and mobile technology are being used by

²⁰ K.C. (n 3).

²¹ wpaadmin, 'Nepal's Silent Crisis: Human Trafficking Under the Spotlight' (*The Asia Foundation*, 27 September 2024) <<https://asiafoundation.org/nepals-silent-crisis-human-trafficking-under-the-spotlight/>> accessed 14 September 2025.

²² Aichurek Kurmanbekova Rahut Dil, 'Fighting the Trafficking of Women and Children in Asia' (*Asia Pathways*, 1 August 2023) <<https://www.asiapathways-adbi.org/2023/08/fighting-the-trafficking-of-women-and-children-in-asia/>> accessed 14 September 2025.

²³ Tameshnie Deane, 'Cross-Border Trafficking in Nepal and India—Violating Women's Rights' (2010) 11 *Hum Rights Rev* 491.

traffickers more frequently to entice and trick victims, by making false promises of employment. Climate change, especially in the Himalayan region, makes people more susceptible to trafficking after natural disasters, population displacement and loss of livelihood.²⁴ The poor economic climate hinders availability of suitable employment more severely for women than men is the main reason why women are compelled to leave the country.

Another pressing concern is drug trafficking. Due to its location and lax border security, Nepal serves as a convenient transit centre for both domestic and international drug trafficking networks. Traffickers transport illegal drugs throughout South Asia and abroad by taking advantage of the open Indo-Nepal border and the nation's inadequate customs infrastructure. In South and Southeast Asia, for example, synthetic drugs like Ya Ba, which are made near the China-Myanmar border, are trafficked and end up in Nepal as part of broader routes that are headed to other continents.²⁵ In addition to being a transit nation, Nepal has seen an increase in the domestic use of heroin, cannabis, and opiates, which has made the task of law enforcement more difficult. Nepal is particularly vulnerable to serving as a conduit and a destination for drug trafficking.

Another issue that Nepal is facing more and more is the trafficking of small arms. Nepal Police is dealing with an increase in small guns being smuggled across the northern Nepal–China border, especially from Lhasa, according to BBC reporting.²⁶ The insecurity in Nepal and the surrounding area is exacerbated by these weapons, which frequently end up in the hands of organized crime organizations and, occasionally, insurgency forces. The arrest of Sheikh Salim, often known as "Salim Pistol," one of India's most infamous illegal arms traffickers, by Nepal Police on August 8, 2025, in cooperation with Delhi Police's Special Cell and Indian security services, is a recent example.²⁷ His apprehension in Nepal underpins the nation's concern regarding illegal arms trade.

²⁴ '2024 Trafficking in Persons Report: Nepal' (*United States Department of State*) <<https://2021-2025.state.gov/reports/2024-trafficking-in-persons-report/nepal/>> accessed 14 September 2025.

²⁵ Abdullah Tariq and others, 'International Drug Trafficking: A Case Study of the South Asian Region' (2024) 5 *Journal of Humanities, Social and Management Sciences (JHSMS)* 100.

²⁶ 'Illegal Arms Trade Flourishes in Nepal Tourist Area' *BBC News* (2 July 2010) <<https://www.bbc.com/news/10471969>> accessed 9 September 2025.

²⁷ Anjali M, 'Notorious Arms Dealer "Salim Pistol" Nabbed in Nepal: Blow to India's Underworld' (*TamilWire*, 9 August 2025) <<https://www.indianwitness.com/news/crime/notorious-arms-dealer-salim-pistol-nabbed-in-nepal-blow>> accessed 9 September 2025.

Nepal hosts a great diversity of flora and fauna, and supports a disproportionately high diversity of globally vulnerable species with respect to its land area. Since almost 23% of its land area has been set aside as protected areas and related buffer zones, the nation has made significant progress in protecting biodiversity over the past 50 years. Additionally, the country has recently documented increasing population trends of many critically endangered megafaunal species, such as tiger, rhino, elephant, and wild buffalo. Despite these admirable successes, a large portion of the illegal wildlife trade still exists and is probably growing given the rise in international trade in recent decades. In sink sites, the wildlife trade relies on easily accessible marketplaces with wealthy consumers. In source locations, it relies on insufficient livelihood choices and weak enforcement measures. Surrounded by the massive economies of China and India, Nepal is the least developed country. International and regional wildlife trade assessments document the trading of some of Nepal's native species, including pangolins, tigers, rhinoceroses, and leopards, in China, its neighbouring regions, and other Asian nations.²⁸

Gold smuggling has been growing at the Tribhuvan International Airport (TIA) despite tightened security surveillance, harming Nepal's reputation abroad. TIA is now a transit for precious yellow metal trafficking. In December 2023, almost 14 kg of gold was seized from a person at TIA.²⁹ In the same week, three people from Kathmandu's Nagdhunga were taken into custody with two kilograms of gold.³⁰ They were suspected of using the Rasuwagadhi border post to carry gold from Kerung in Nepal-China border. Two months before that, 11 people including a Chinese national was arrested for smuggling 11 kilograms of gold from China.³¹ This followed the capture of 60 kg of gold from the same airport in July of the same year.³² 33 kg gold smuggling of 2017 still makes media headlines time and again.³³ All of these have damaged Nepal's reputation as a hub for illegal gold. Tons of gold being smuggled from airports

²⁸ Prakash K Paudel and others, 'Trends, Patterns, and Networks of Illicit Wildlife Trade in Nepal: A National Synthesis' (2020) 2 Conservation Science and Practice e247.

²⁹ 'Chinese National Arrested in Nagdhunga Gold Smuggling Case' (8 August 2024) <<https://myrepublica.nagariknetwork.com/news/chinese-national-arrested-in-nagdhunga-gold-smuggling-case>> accessed 9 September 2025.

³⁰ *ibid.*

³¹ BAL KRISHNA SAH, 'One More Chinese National Nabbed in Gold Smuggling Case' (*The Himalayan Times*, 5 October 2023) <<https://thehimalayantimes.com/kathmandu/one-more-chinese-national-nabbed-in-gold-smuggling-case>> accessed 9 September 2025.

³² 'Curb Rising Gold Smuggling' (*GorakhaPatra*) <<https://risingnepaldaily.com/news/36093>> accessed 9 September 2025.

³³ '33 KG Gold Case: Six Sentenced to Life in Prison, 48 Others given Clean Chits' (8 August 2024) <<https://myrepublica.nagariknetwork.com/news/33-kg-gold-case-six-sentenced-to-life-in-prison-48-others-given-clean-chits>> accessed 9 September 2025.

and borders is a clear indication of inadequate border and airport security.

The rise in cross-border crime is another issue in communities near the Indo-Nepal border. It has been reported that organized criminal gangs are involved in drug, counterfeit, abduction, and extortion activities, and that there is a connection between politicians and criminal gangs obstructing the prosecution and punishment of openly observed crimes.³⁴

Problems Specific to Transnational Crimes

The problems that are uniquely augmented in combating crimes of transnational nature are described hereunder.

I. The Differing Notions of Legality

The primary problem peculiar to the transnational crimes is the definition of crime itself. The conduct that is acceptable in one country may be illegal in another.³⁵ The notion of legality and illegality may differ country to country. At times, it is based on sociology of law. Even when we take an example of prima facie non-criminal and universal human conduct like marriage, the idea of legality is different. Many countries like Mali, Libya, Saudi Arabia, Oman, Iran legalise polygamy, countries like Afghanistan, Pakistan, India, Nigeria and Kenya legalise polygyny only, whereas in others like South Africa, Zimbabwe and Namibia polygamy is a civil wrong, and in countries like Nepal it is a criminal offence.³⁶ Gay marriages are illegal in many countries but legal in others like Canada, USA, South Africa, Spain, Argentina, New Zealand and Nepal.³⁷ What counts as a crime in one jurisdiction might not be considered a crime in another. The other contemporary example is cryptocurrency. Countries like Russia, Brazil, India, Canada and Germany legalise it and countries like Nepal, China, Afghanistan, Algeria and Bolivia criminalise it.³⁸ So are the regulation on gambling, where some countries legalise it and some criminalise it. This could be a result of cultural relativism or difference in political ideology and economic aspirations of the country.

³⁴ K.C. (n 3).

³⁵ Finckenauer (n 16).

³⁶ §175 of National Penal Code, 2017 (Nepal); 'Countries Where Polygamy Is Legal 2025' <<https://worldpopulationreview.com/country-rankings/countries-where-polygamy-is-legal>> accessed 9 September 2025.

³⁷ 'Countries Where Gay Marriage Is Legal 2025' <<https://worldpopulationreview.com/country-rankings/countries-where-gay-marriage-is-legal>> accessed 9 September 2025.

³⁸ 'Countries That Use Cryptocurrency 2025' (*World Population Review*) <<https://worldpopulationreview.com/country-rankings/countries-that-use-cryptocurrency>> accessed 9 September 2025.

When certain activities criminalised in one country are legalised elsewhere, this opens up loopholes for offenders. Criminal organizations take advantage of these legal distinctions by operating in areas with lax enforcement or where their actions are permitted. Money laundering companies may transfer their funds through nations with laxer banking laws. To combat transnational crimes, several institutions, including domestic police, financial regulators, and immigration authorities from several jurisdictions, must work together. It becomes challenging to cooperate if nations cannot agree on whether the conduct is truly criminal.

II. Legal Facade of Illegality

As explained in the subsequent paragraphs, organized white-collar crimes make up the majority of transnational crimes.³⁹ It is difficult to prove such a crime.

Actus reus and *mens rea* are typically needed under criminal law jurisprudence to establish a crime. However, establishing *mens rea* in these kinds of international white collar crimes is challenging.⁴⁰ The criminal activity could resemble legal behaviour quite a bit. For instance, transferring money from one bank account to another is essentially legal act unless the purpose is money laundering. It is difficult to demonstrate that the individual meant to commit a crime because the behaviour doesn't appear *prima facie* suspicious. The instruments or techniques are lawful in and of themselves. For example, sending money to an offshore account is not against the law in and of itself. Many individuals and corporations use this technique for tax planning, which is typically legal, but it is also used for tax evasion, which is unlawful. Therefore, it is difficult for law enforcement to discern between legal and illegal transactions and to establish beyond a reasonable doubt that the accused had criminal intent because criminal conduct are often concealed within legitimate activity. This issue is especially prevalent in international financial crimes where legitimate procedures are abused for illicit purposes, such as tax evasion, money laundering, and terrorism financing.

III. Fluid Organisations

Instead of trying to be one giant gang doing everything, modern criminal units specialize in one specific service.⁴¹ Each group provides their "expertise." These specialized teams

³⁹ Schlegel (n 5).

⁴⁰ *ibid.*

⁴¹ John McFarlane, 'Regional and International Cooperation in Tackling Transnational Crime, Terrorism and the Problems of Disrupted States' (2005) 12 *Journal of Financial Crime* 301.

temporarily assemble to do particular tasks. There is less inter-gang fighting since various groups work together rather than competing, which lowers risks and increases profits. These groups don't have a strict organizational structure like a traditional mafia family. Instead, these groups create short-term networks for one job, break apart, and then reorganize for another. Because there is no set leadership or long-term organization, they are more difficult to locate, infiltrate, or dismantle. Traditional methods of hunting the gang leader are less successful because once a gang is broken, the chain of criminal activities do not end. Simply another criminal group is formed for another operation.

To draw better illustration, in a gold smuggling operation in Nepal, one network specializes in importing gold from the UAE, China or Hongkong. Another specializes in concealment of the imported gold in machinery parts or electronic appliances. Another network takes care of fraudulent customs clearance. A different group launders the money to the gold supplier abroad.

In the 100-kg gold smuggling to Kathmandu, the Department of Customs had decided to suspend three of its officials who had given customs clearance to the gold consignment disguised as motorcycle brake shoes.⁴² These individuals facilitated customs clearance of gold, partially or completely unaware of the other crimes in the gold-smuggling operation. So even their arrest would help little to take down the entire gold smuggling because they would now have knowledge of the other activities of the operation. Eventually, a newer group would form with new individuals in the next operation.

IV. Professional Support

Supporting criminal networks typically consist of a variety of professionals who work on the periphery of illegal activity but are essential to the success of transnational crime.⁴³ One such instance is the aforementioned customs officers at the TIA who authorized the gold shipment. Bankers, customs officers, attorneys, financial advisors, IT specialists, businesspeople, chemists, politicians, judges, bureaucrats, police, military personnel, and others are examples of professions who assist criminals in their activities. Transnational crimes grow harder to

⁴² HIMALAYAN NEWS SERVICE, 'Three Airport Customs Employees Suspended' (*The Himalayan Times*, 23 July 2023) <<https://thehimalayantimes.com/kathmandu/three-airport-customs-employees-suspended>> accessed 14 September 2025.

⁴³ McFarlane (n 38).

identify with such expert help, and criminals increasingly magnify their crimes in terms of variety, geographical area and profits.

V. Legitimation of Illegal Profits

Criminal proceeds are increasingly being invested in stocks, real estate, and lawful businesses rather than being utilized to support the extravagant lifestyles of the criminals involved.⁴⁴ It lowers suspicion by offering a consistent, legitimate-looking source of income. It gives criminals long-term financial security, which increases their societal and political clout. It is more difficult to identify the illegal source of money once it has been incorporated into legal markets. When shell corporations and middlemen are used, investments in shares, businesses, or real estate produce a paper trail that appears authentic. The number of suspicious transaction reports received by the Financial Information Unit-Nepal increased from 6,255 in 2023 to 9,304 in 2024.⁴⁵ It is possible that some or all of the questionable transactions are efforts of legitimising the profits earned from undetected transnational crimes.

Causes of Transnational Crimes

The major causes of transnational crime and the enablers that facilitate transnational crimes by providing resources, reducing risk of detection, prosecution and punishment, and exploiting vulnerabilities within systems and societies are described hereunder.

I. The Border Stories

The proliferation of criminal activity along border regions is a common problem across the globe since permeable borders frequently provide chances to flourish for criminal networks.⁴⁶ From commodities to organs, transnational trafficking is often reported for drugs, artifacts, pricey metals and stones, flesh trade, sex trafficking, firearms, and weapons of mass destruction to avoid legal scrutiny. Cocaine trafficking has been greatly aided by lax border barriers in West Africa.⁴⁷ Not just forbidden goods, everyday consumer products are also trafficked across the border to evade customs duties. Since avoiding taxes results in a large boost in profit margins. In this way, the very fact that tariff regimes exist makes smuggling more likely because borders themselves serve as alluring locations for illegal trade. Borders frequently

⁴⁴ *ibid.*

⁴⁵ 'Suspicious Transaction Activities Surge by 49 per Cent: NRB Report' (*GorakhaPatra*) <<https://risingnepaldaily.com/news/62240>> accessed 14 September 2025.

⁴⁶ K.C. (n 3).

⁴⁷ *ibid*; Eyo and Okebugwu (n 2).

become into hotspots for illegal activity when people and organized groups try to evade paying exorbitant tariffs or taxes, not only in Nepal but all across the world. The Greater China region's borderless system has played a major role in the continuation of cross-border crimes there.⁴⁸

These dynamics are equally evident in Nepal, where transnational criminal activity is often associated with the porous Indo-Nepal border. Nepal shares borders with India to the south, east, and west, and China to the north. Uncontrolled smuggling, drug and arms trafficking, terrorism, and minor offenses, especially in the Terai belt, are thought to be caused by the lack of regulatory and geographic restrictions across the border with India, the unmarked and inadequately guarded Nepal-Bihar frontier, and the easy movement of people and goods through the border.⁴⁹ The easy movement of people and goods across the border is making it harder to prevent transnational crime, while the scholars debate on whether the Indo-Nepal border is porous or an open one. However, very few academics have challenged the idea that open borders are the main cause of cross-border crime, arguing that such claims oversimplify a more intricate set of security issues.⁵⁰ When combined, these viewpoints imply that although there is no denying that an open border creates opportunities for transnational crime, blaming entirely on its openness runs the risk of neglecting the larger institutional, political, and cultural factors that make law enforcement more difficult when dealing with transnational criminal issues.

II. Poverty

The village of Hokse in Kavrepalanchowk district of Nepal is known as Kidney valley because someone from almost every household has sold a kidney. For years, brokers have been coming to the area and convincing people to donate their organs, even though it is against the law to do so. Many have been forced to sell their organs due to financial deprivation and struggle for survival when legal measures have failed to educate and empower them or have failed to offer job or capital to the educated and empowered ones. Individuals are typically transported to India, operated on, and have their kidneys or other organs removed. They are then either left to perish or given their minimal rupees back.⁵¹ It is estimated that one out of 10 organs

⁴⁸ K.C. (n 3); Eyo and Okebugwu (n 2).

⁴⁹ K.C. (n 3).

⁵⁰ *ibid.*

⁵¹ 'Nepal's Organ Trail: How Traffickers Steal Kidneys | CNN' <<https://edition.cnn.com/2014/06/26/world/asia/freedom-project-nepals-organ-trail/>> accessed 14 September 2025.

transplanted globally, are trafficked.⁵² Some people are tricked, while others are misled. Whatever be the means, the root cause is poverty. Poverty is understood as the fuel to crimes domestically as well. The increased interconnectedness among states just makes people in poverty more susceptible of either committing crimes or being victimised in transnational crimes. In the example of Hokse village, the latter stands evidently true.

III. Corruption

Corruption is widely regarded as one of the most powerful enablers of transnational crime. In order to carry out their operations, transnational criminal organizations frequently infiltrate state institutions by compromising the very people entrusted with overseeing them. Customs personnel, immigration authorities, law enforcement officers, and political leaders are frequently the targets of intimidation and bribes. When corruption becomes entrenched, criminal enterprises are able to thrive beyond national borders as border checks are circumvented, investigations are put on hold, and prosecutions fall apart. One such instance is the suspension of customs officers for aiding in the smuggling of gold via TIA, as previously described. This illustrates how enforcement tools are neutralized by corruption. In Nepal, corruption is a major factor in making money laundering, human trafficking, and smuggling possible.

Furthermore, frontline officers are not the only ones affected by corruption. Criminal enterprises are often shielded from legal scrutiny by political nexus. Governments frequently reluctant to enact strict legislation or independent scrutiny when political actors profit from illegal fundraising or campaign financing supplied by criminal organizations.⁵³ Similar to other countries like Honduras and Peru,⁵⁴ where organized crime has influenced politics, accusations that political patronage networks shield traffickers and smuggling gangs also frequently surface in Nepal.

This promotes international crime by providing political support to criminal organizations, undermining legal actions, and allowing safe passages. Without addressing corruption as a top priority in Nepal's strategy for governance and criminal management, combating transnational

⁵² 'Nepal Villagers Duped into Selling Kidneys and Told Organ Would Regrow - Now Country Faces New Health Crisis' (*Sky News*) <<https://news.sky.com/story/nepal-villagers-duped-into-selling-kidneys-and-told-organ-would-regrow-now-country-faces-new-health-crisis-13098662>> accessed 14 September 2025.

⁵³ Eyo and Okebugwu (n 2).

⁵⁴ *ibid.*

crime will not truly amount to anything impactful.

IV. Poor Governance

Underdevelopment interacts with poor governance. People resort to the informal or illegal economy when the government is unable to provide essential services like jobs, infrastructure, and social security. These institutional gaps are used by criminal organizations to grow their operations. Legal ways of living are made harder by fragile institutions' inability to successfully implement the law. Transnational criminal organizations frequently act as parallel structures in these situations, offering illegal alternatives for work, income, or services. This gradually transfers authority and control over citizens from the state to these criminal organizations.

The experience of Nepal showcases this dynamic. People now have limited security, employment possibilities, and opportunities for advancement due to decades of political instability, deeply rooted corruption, frequent changes in government, and inadequate institutional frameworks. Transnational criminal organizations can take advantage of these gaps. As previously mentioned, the Terai region has become a hotbed for smuggling, trafficking, and other crimes due to the porous border between India and Nepal and inadequate enforcement capabilities. Recurring large-scale gold smuggling incidents reveal institutional flaws in security and customs agencies, as well as a lack of trust in law enforcement. As unemployment rises and purchasing power declines, forced organ trafficking reveals the root causes of poverty and survival struggles, demonstrating the state's incapacity to protect its citizens' means of subsistence.

Instances of human trafficking show the state's incapacity to train and utilise its human resources, as well as governance flaws in controlling the movement of foreign workers. Due to a lack of protection for migrant workers, poor oversight of recruitment agencies, and insufficient employment resources, traffickers take advantage of weaknesses to send Nepali laborers to the United States, Malaysia, Poland, and other Gulf nations. The state's incapacity to uphold current legislation and safeguard its nationals overseas is indicative of more significant structural flaws.

Transnational crime networks flourish in areas with the weakest government, such as border crossings, labour migration routes, and industries like customs and trade, as is the case in El

Salvador, Afghanistan, and Colombia, as well as in Nepal.⁵⁵

To summarize, transnational crime is being affected by three related factors in Nepal: globalization of the economy, increased numbers and heterogeneity of immigrants, and improved communications technology as reported by the National Research Council.⁵⁶ The demand for illegal goods and services, which becomes transnational once the producers, suppliers, and consumers are scattered in different countries, and the enduring social and economic disparities that force people to migrate and, consequently, provide opportunities for human trafficking are the first two factors. These are similar to the general drivers of crime everywhere. These are made possible by inadequate governance and weak institutions. The universal quest for wealth and power is at the heart of these processes. Adding to that, the technological innovation, advances in rapid transit, and information systems have been the contemporary propellants of transnational crimes.

International Legal Framework

At the global level, a number of United Nations (UN) and other international instruments have been developed to deal with transnational crimes. The global and regional legal order have emphasised organised transnational crimes and particularly terrorism. The major international legal framework in combating transnational crimes, particularly relevant to Nepal are described hereunder.

I. UN Convention Against Transnational Organised Crime and the Protocols thereof
The most notable in this context is the UN Convention Against Transnational Organised Crime 2000⁵⁷ and its three Protocols. The Convention was adopted by UN General Assembly Resolution 55/25 of 15 November 2000 and was entered into force on 29 September 2003. Under this instrument, States commit to undertake an array of initiatives to combat transnational organized crime. It includes, *inter alia*, the criminalisation of certain organised crimes; adoption of legal frameworks enabling extradition, mutual legal assistance and cross-country law enforcement cooperation; and promote training and technical assistance to national authorities for capacity enhancement in combating transnational organised crimes.

⁵⁵ K.C. (n 3).

⁵⁶ Finckenauer (n 16).

⁵⁷ United Nations Convention against Transnational Organized Crime 2000.

The Convention is supplemented by three Protocols:

- i. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;
- ii. The Protocol against the Smuggling of Migrants by Land, Sea and Air; and
- iii. The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.

All three Protocols entered into force in 2003, 2004 and 2005 respectively. The Protocols were designed to deal with particular manifestations of transnational organised crime in the form of human trafficking, facilitating illegal migration, and trafficking of arms and ammunition.

With reservations on Article 35, paragraph 2 of the Convention, which calls for the settlement of international disputes through negotiation, arbitration, and finally the International Court of Justice, Nepal signed the Convention on December 12, 2002, and ratified it on December 23, 2011. On June 16, 2020, it joined the Protocol on trafficking in persons with the same reservations as the Convention. The other two Protocols have not been ratified by Nepal.

II. UN Convention against Corruption

UN Convention against Corruption⁵⁸ is the other treaty that can be cited in this regard. As has been described earlier, corruption that weakens law enforcement and state institutions is one of the strong enablers of transnational crimes. This Convention was adopted by the UN General Assembly on 31 October 2003 and entered into force on 14 December 2005. With 191 States party to the Convention, it can be said to have approximately universal coverage. The Convention is designed with a holistic approach encompassing preventive measures, criminalization and law enforcement at domestic level, as well as international cooperation and asset recovery in corruption issues.

III. Other UN instruments

There are several United Nations treaties that address specific categories of transnational crimes, each designed to target a particular global threat. For instance, the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances deals with drug trafficking; the 1970 Hague Convention focuses on the suppression of unlawful seizure

⁵⁸ United Nations Convention against Corruption, adopted 31 October 2003, 2349 UNTS 41

of aircraft hijacking; and the 1997 International Convention for the Suppression of Terrorist Bombings criminalizes the use of explosives by terrorist groups. Similarly, the 1999 International Convention for the Suppression of the Financing of Terrorism aims to curb the flow of funds that fuel terrorist activities. Multitudinous UN instruments demonstrate that the UN has developed a wide array of specialized treaties to respond to the proliferating and evolving nature of transnational crimes.

All in all, the international legal system pertaining to transnational crime is extensive and dynamic, mirroring the multifaceted and intricate nature of the risks at play. The international community has created a shared framework for collaboration, criminalization, and enforcement through a number of specialized treaties. Being a signatory to several of these agreements shows Nepal's dedication to bringing its domestic legal system into compliance with international norms. However, Nepal's ability to fully benefit from these procedures is still restricted by limited implementation and capacity issues. Even though the normative underpinnings have been established at the international level, stronger institutions, improved interagency coordination, and persistent political will are therefore needed to translate these promises into effective national practice.

Regional Legal Framework

At the regional level, it is important to note the initiatives taken by South Asian Association on Regional Cooperation (SAARC). Regional cooperation has been acknowledged as essential due to South Asia's weak borders, similar socioeconomic vulnerabilities, and integrated criminal networks. To combat organized crime, terrorism, drug and human trafficking, and mutual legal aid, SAARC has established a variety of treaties and institutions over the years. These regional tools present Nepal, which is home to the SAARC Secretariat with opportunities in enhancing its ability to combat transnational criminal activity.

I. Regional Convention on Suppression of Terrorism

The SAARC Regional Convention on Suppression of Terrorism was adopted in 1987 and amended by the 2004 Additional Protocol.⁵⁹ The Convention aims to strengthen regional cooperation against terrorism. It includes provisions on, *inter alia*, extradition of terrorists among SAARC nations, information sharing, and mutual legal assistance.

⁵⁹ SAARC Regional Convention on Suppression of Terrorism, adopted 4 November 1987

II. Convention on Narcotic Drugs and Psychotropic Substances

The SAARC Convention on Narcotic Drugs and Psychotropic Substances⁶⁰ was designed to promote regional cooperation in combating trafficking of drugs and precursor chemicals. It was adopted on 23rd November 1999. The key provisions on the Convention surround exchange of information on drug traffickers and routes, joint operations to intercept trafficking, harmonisation of laws on criminalization of narcotic drugs and such.

III. Convention on Preventing and Combating Trafficking in Women and Children for Prostitution

On January 5, 2002, the Convention on Preventing and Combating Trafficking of Women and Children for Prostitution was established with the intention of criminalizing and discouraging the ever-increasing trafficking of women and children in South Asia.⁶¹ It urged governments to make human trafficking a crime, penalise it, repatriate the victims across borders, and make efforts in rehabilitating victims in society.

IV. Other instruments

Additional regional tools include the 2008 SAARC Convention on Mutual Assistance in Criminal Matters, which seeks to support cross-border criminal investigations and prosecutions by aiding in the identification of suspects, the execution of arrest warrants, asset recovery, evidence sharing across nations, alongside other areas of mutual legal assistance.

Additionally, there are noteworthy SAARC regional action plans and strategies on drug misuse, human trafficking, and counterterrorism that serve as soft law tools. The practical impact of SAARC's extensive set of treaties and action plans tackling human trafficking, terrorism, drugs, and mutual legal help has been little. Due to the lack of a strong enforcement mechanism within SAARC, individual States are primarily responsible for ensuring compliance, which leads to uneven execution and poor follow-through. Additionally, political conflicts among participating nations frequently hinder collaboration and the establishment of legally bound organizations with actual power. The organization's ineffective structures for accountability, enforcement, and monitoring limit the usefulness of these regional tools. Without stronger political will and mechanisms to ensure compliance, SAARC's role in combating transnational

⁶⁰ SAARC Convention on Narcotic Drugs and Psychotropic Substances, adopted 5 January 1990

⁶¹ SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, adopted 5 January 2002

crime risks remaining more aspirational than operational.

Domestic Legal Framework

Constitution of Nepal is the foundational legal document of Nepal.⁶² Promulgated and implemented in 2015, the Constitution provides for an array of fundamental rights and freedoms safeguarding life and civil liberties which forms the basis for all such rights emanating from them. National Penal Code, 2017 is the core set of substantive criminal law in Nepal.⁶³ It specifies general principles of criminal justice, criminal conspiracy, attempt, complicity, aggravating and mitigating factors and provisions on punishment and interim relief and particular types of crime. There are no specific statutes directed at transnational crimes but rather there are statutes that deal with the most common and insidious forms of transnational crimes affecting Nepal and specific statutes for mutual legal assistance and extradition.

I. Human Trafficking

One such legislation is the Human Trafficking and Transportation (Control) Act, 2007.⁶⁴ The Act recognises human trafficking as a major form of violence and categorises it as a crime against the state. It criminalises and penalises trafficking in persons, prostitution and using someone for prostitution, organ extraction, and transportation of humans within and beyond Nepal. The Act was commended for its victim-centric approach departing ways from its predecessor the Human Trafficking Control Act of 1986. In a report published by the Forum for Women, Law and Development in 2014 assessing the implementation status of the Act, it noted certain gaps in the framework.⁶⁵ The Act focusses on prosecution and does not encompass preventive measures. The Act envisions that all human trafficking is necessarily for sexual exploitation while the purpose of human trafficking has widened over time. Lack of resources makes it particularly challenging to combat transnational and organised nature of human trafficking while also impeding victim centred approach as the funds for rehabilitation are insufficient in Nepal's poor economy. The other issue is the confusion surrounding the delimitation between human trafficking and the offences under the Foreign Employment Act, 2008.⁶⁶ The confusion manifests in practice as institutional clashes and legal ambiguity.

⁶² Constitution of Nepal 2015 (promulgated 20 September 2015).

⁶³ National Penal Code, 2017

⁶⁴ Human Trafficking and Transportation (Control) Act 2007

⁶⁵ Sapana Pradhan Malla and others, *Human Trafficking and Transportation (Control) Act, 2007: Its Implementation* (Forum for Women, Law and Development 2014).

⁶⁶ Foreign Employment Act 2008

II. Drug trafficking

The key legislation on drug smuggling is the Narcotic Drugs (Control) Act, 1976.⁶⁷ The Act from the seventies criminalizes production, distribution, and trafficking of narcotic drugs and psychotropic substances. Cannabis/marijuana production, preparation, procurement, sale, distribution, import, export, trafficking, storage, and use are all punishable under this law. In certain areas of Nepal, an exception permits the controlled production and distribution of hashish derived from wild cannabis plants. Narcotic drug use is allowed for medicinal reasons when a licensed healthcare professional recommends it. The Act gives police and customs the authority to confiscate drugs and bring criminal charges against violators. However, the Act does not include synthetic pharmaceuticals and precursor substances in its scope. The Act offers little in the way of cross-border collaboration in the fight against transnational crimes to combat transnational drug trafficking.

III. Money Laundering

Money laundering in Nepal is dealt under the Money Laundering Prevention Act, 2008.⁶⁸ The Act establishes Financial Information Unit (FIU-Nepal) under Nepal Rastra Bank. The Unit functions as Nepal's financial intelligence hub by collecting and analysing suspicious transactions reports (STRs), ensuring compliance of reporting entities, sharing intelligence with domestic and international counterparts, and advising the government on anti-money laundering and counter terrorism financing strategies. The Act criminalises and penalizes acquiring, possessing, disguising, transferring, or using assets derived from criminal activity or an attempt, assistance or conspiracy thereof. The Act enables Nepal to exchange financial intelligence with foreign FIUs, provides legal framework for extradition, mutual legal assistance, and asset recovery facilitating international cooperation in combating money laundering. The Act also strives towards preventing money laundering through Customer Due Diligence (CDD), record-keeping, and Know Your Customer (KYC) standards and enhanced scrutiny of politically exposed persons (PEPs).

IV. Mutual Legal Assistance

The term "mutual legal assistance" describes a formal procedure wherein nations cooperate in criminal cases. It enables states to ask for and offer help in gathering evidence, investigating

⁶⁷ Narcotic Drugs (Control) Act, 1976

⁶⁸ Money Laundering Prevention Act, 2008

crimes, and prosecuting offenders across borders. The Mutual Legal Assistance Act, 2014 deals with the process and requirements of providing and obtaining legal assistance between Nepal and any other country.⁶⁹ Based on the Act, Nepal can seek and provide mutual legal assistance to and from other country for examination of evidences, serving summons, carrying out investigation of crimes, attaching the title of any property, presenting a person, and enforcement of judgment. The Act provides a general rule that legal assistance can be provided to a foreign country on the basis of a bilateral treaty or on the basis of reciprocity. Provided that, in absence of such bilateral treaty the judgment of foreign court from that country cannot be enforced in Nepal except if the judgment is for the crimes of money laundering, terrorism, or manufacturing or financing the weapons of mass destruction.

V. Extradition

The official procedure by which one nation turns over an individual who has been charged or found guilty of a crime to another where they are wanted for trial or to serve a term is known as extradition. Extradition Act, 2013 is the key legislation on extradition in Nepal.⁷⁰ It provides that extradition can be done for the crimes that yield punishment of at least three years under the laws of Nepal or under the laws of the requesting country or for the crimes related to banking, taxes or government revenues. It describes the procedure of extradition and also enlists the conditions in which extradition can be denied by Nepal. To prevent criminals from being extradited, it lists some offenses that cannot be classified as political crimes, such as drug trafficking, money laundering, human trafficking, corruption, and all types of organized crime, including transnational organized crime.

In gist, Nepal has progressively created laws addressing the most urgent forms of transnational crimes, such as drug and human trafficking, money laundering, extradition, and mutual legal assistance. These laws offer the fundamental instruments for bringing Nepal's domestic government into compliance with international norms and facilitating collaboration with other legal systems. However, there are still several important gaps, including out-of-date clauses that do not address synthetic narcotics and their precursors, a lack of resources for trafficking victims' rehabilitation, and institutional overlaps that lead to legal uncertainties. Other pertinent legal documents, in addition to the main statutes covered above are the Immigration Act, 1992,

⁶⁹ Mutual Legal Assistance Act, 2014

⁷⁰ Extradition Act, 2013

which regulates both immigration and emigration, and the Electronic Transaction Act, 2008, which addresses the technological dimensions of emerging crimes like cyber fraud. These laws collectively demonstrate Nepal's efforts to respond to the multifaceted nature of transnational crimes.

Institutional Mechanisms

The first line of protection against border crimes, drug smuggling, human trafficking, and cyber-enabled fraud is provided by law enforcement and security organizations like the Armed Police Force and Nepal Police. Border and immigration services control the movement of people and products across international borders. Financial and anti-corruption organizations supervise illicit financial flows. Transnational matters are prosecuted and decided by judicial authorities. Nepal's participation in international organizations opens up opportunity to collaborate internationally. These domestic agencies and international organizations work together to provide a thorough, yet fragmented, framework for dealing with the increasing complexity of transnational crimes. A wide range of entities that function at the national, regional, and global levels that make up Nepal's multi-layered institutional apparatus in the fight against transnational crimes are described hereunder.

I. Law Enforcement & Security Agencies

Nepal Police, particularly Central Investigation Bureau (CIB), Narcotics Control Bureau, Women & Children Service Directorate directly resonate with combating transnational crimes at domestic level. These institutions handle human trafficking, drug smuggling, cyber fraud, and organized crimes. Armed Police Force (APF) is the other institution that deals with border security, smuggling interception, terrorism control and anti-trafficking operations. It has been deployed along Indo-Nepal border and Nepal-China borders to intercept trafficking and arms smuggling.⁷¹ National Investigation Department (NID), operating under the Office of the Prime Minister and the Council of Ministers, is an intelligence organisation gathering information on economic and financial crimes, terrorism, and organized crime among its other functions.⁷²

⁷¹ 'Roles of Armed Police Force, Nepal' (*Armed Police Force, Nepal*) <<https://www.apf.gov.np/roles-of-armed-police-force>> accessed 14 September 2025.

⁷² 'National Investigation Department' (*National Investigation Department*) <<https://nidept.gov.np/carousel-detail/5/>> accessed 14 September 2025.

II. Financial & Anti-Corruption Institutions

Nepal Rashtra Bank (NRB) is the central bank of Nepal. It seeks to ensure compliance with the enforcement of anti-money laundering and counter financing of terrorism on banks and financial institutions. FIU – Nepal under the NRB is the central hub for anti-money laundering and counter terrorism financing intelligence. As described in the preceding section, it collects and analyses suspicious transactions reports, shares intelligence with domestic and international counterparts, and advises the government on anti-money laundering (AML) and counter terrorism financing (CTF) strategies. Department of Revenue Investigation (DRI) handles financial crimes and tax evasion. It brings under legal scrutiny the financial frauds and the loss of revenue through smuggling. Commission for the Investigation of Abuse of Authority (CIAA) established under the constitutional mandate is the anti-corruption watchdog. It investigates and prosecutes abuse of authority and corruption by public officials. Its key functions include investigating corruption and abuse of authority by persons holding public office, post-tenure investigations of certain officials, prosecution of crime, and referral of the matter to the appropriate authority for necessary action among others.⁷³

III. Border & Immigration Agencies

The frontline organizations in charge of border and immigration in Nepal are the Department of Immigration (DoI) and the Customs Department. They supervise the passage of people, vehicles, and commodities into and out of the nation ensuring legal and security compliance. The Customs Department also controls the import and export procedures, imposing taxes and keeping an eye on the products. Both organizations are especially important in the fight against human trafficking, counterfeit goods, other illegal commerce, and gold smuggling, which are all quite common in Nepal's loosely monitored border regions. Their responsibilities go beyond standard regulatory duties to include aggressively identifying and stopping instances of migrant smuggling and the trafficking of illegal commodities, such as firearms and drugs. These governmental bodies are essential gatekeepers in the battle against transnational crimes because of Nepal's strategic location as a transit route between South Asia and China and its open border with India.

IV. Judicial Institutions

The judiciary plays a central role in Nepal's framework for addressing transnational crimes by

⁷³ Constitution (n 59).

ensuring that cases are prosecuted and adjudicated in accordance with the law. The primary body in charge of prosecuting crimes, including those with transnational components, is the Office of the Attorney General (OAG)⁷⁴, which also serves as the government's chief legal advisor. The OAG collaborates with the Ministry of Law, Justice and Parliamentary Affairs, the Ministry of Foreign Affairs, and the Ministry of Home Affairs in processing mutual legal assistance in addition to its prosecutorial duties. This makes OAG a crucial institutional player in promoting global collaboration in criminal cases.

The courts⁷⁵ of Nepal adjudicate upon criminal cases including transnational crimes, extradition requests, money laundering, and human trafficking. The Special Court⁷⁶, having the constitutional mandate hears cases of corruption and money laundering, which are closely linked with organized and transnational criminal activities.

Furthermore, the judiciary's role extends to recognizing and enforcing judgments from foreign courts under specific circumstances, as provided by the Mutual Legal Assistance Act, thereby fortifying international cooperation mechanisms.

V. International Institutions

As a landlocked country with porous borders and limited enforcement capacity, Nepal relies on international institution for technical support, intelligence sharing, and policy guidance. The international institutions that Nepal majorly interacts with are described hereunder.

i. International Criminal Police Organization

Within the Nepal Police headquarters, Nepal runs a National Central Bureau (NCB) that connects the nation to the 196 member states that make up the International Criminal Police Organization's (INTERPOL) global network. Through safe channels, access to international police data and information about crimes and criminals, operational support, technical support, capacity building, and training, INTERPOL makes it easier for law enforcement agencies to assist one another in dealing with crime and criminals. The main 21st-century crimes that INTERPOL is concerned about are corruption, counterfeit currency, money laundering, arms

⁷⁴ *Ibid*

⁷⁵ *Ibid*

⁷⁶ *Ibid*

trafficking, terrorism, drug trafficking and such.⁷⁷ It has created relevant special criminal control mechanisms to fight these crimes. It has set up procedures for terrorist definition, organized international police collaboration, and created an anti-money laundering plan.⁷⁸ The organisation facilitates cooperation; and enables police to work directly with their counterparts even among states which do not have diplomatic relations.⁷⁹

ii. UNODC

The UN Office on Drugs and Crime (UNODC) is a UN agency that seeks to combat illicit drug trade, terrorism and corruption. The UN Convention against Corruption and the UN Convention against Transnational Organized Crime, to which Nepal is a party, are among the important treaties it oversees. Effective criminal justice responses to human trafficking, an efficient legal framework to combat terrorism, corruption, and transnational organized crime, improved cybercrime responses, improved investigation and prosecution, victim assistance, international cooperation for law enforcement at the local, national, and international levels, crime prevention, and criminal justice are all goals of UNODC.⁸⁰ By providing law enforcement with training on trafficking, drug interdiction, and cybercrime, among other things, UNODC helps Nepal develop its capability. It also keeps an eye on adherence to international treaty norms.

iii. Asia/Pacific Group on Money Laundering

Nepal became a member of Asia/Pacific Group on Money Laundering (APG) in June 2022. With 42 member jurisdictions, it is an intergovernmental organization seeking to guarantee that governments successfully apply international norms prohibiting the financing of terrorism, money laundering, and proliferation of weapons of mass destruction.⁸¹ It is part of a global network of similar bodies, referred to as Financial Action Task Force-Style Regional Bodies. Thus, the organization assesses Nepal's compliance to anti-money laundering and counter-terrorism financing guidelines. It also monitors Nepal's financial system for vulnerabilities and provides technical assistance to strengthen FIU. In 2010, Nepal was briefly blacklisted by FATF for weak anti-money laundering and counter financing of terrorism laws, which pushed

⁷⁷ 'Strategy' (*INTERPOL*) <<https://www.interpol.int/Who-we-are/Strategy2>> accessed 14 September 2025.

⁷⁸ Abiodun and Abioro (n 6).

⁷⁹ *ibid.*

⁸⁰ 'UNODC Strategy 2021-2025' (*United Nations Office on Drugs and Crime*) <<https://www.unodc.org/unodc/en/strategy/index.html>> accessed 14 September 2025.

⁸¹ 'Asia / Pacific Group On Money Laundering' (*Asia / Pacific Group On Money Laundering*) <<https://apgml.org/>> accessed 14 September 2025.

it to adopt the amendments to Money Laundering Prevention Act in 2008. Recently in February, it urged the government to institute cases and take strict actions against individuals found guilty of money laundering and to increase surveillance over terrorist activities and arms trade.⁸² Nepal's compliance status today remains partial, with poor enforcement and weak interagency coordination.

Critical Analysis

The interagency challenges and prospects in combating transnational crimes, particularly in Nepal have been presented in the subsequent paragraphs.

- a. Nepal has formulated several laws addressing money laundering, drug smuggling, human trafficking, and extradition all directed at combating transnational crimes to a large extent. It has also ratified a number of international treaties. Despite having a wide institutional and legal foundation, Nepal's response to transnational crime nevertheless has significant operational and structural flaws. There is a gap between the law on paper and the law in practice since these measures have not been adequately implemented in practice owing to reasons analysed in the following paragraph.
- b. Capacity and resource constraints are of crucial concern in this regard. Law enforcement agencies frequently lack the current technology necessary to trace complex crime networks, as well as the manpower and funding necessary to do so. For example, police bureaus tasked with combating cybercrime are still ill-prepared to handle common cyber threats and financial frauds, government lack funds to effectively rehabilitate victims of human trafficking, and the Customs Department finds it difficult to identify concealed items citing antiquated technology. These operational shortcomings lead to exploitable gaps in Nepal's institutional apparatus.
- c. Among the most enduring issues is the interagency clashes. When it comes to investigating and prosecuting cross-border crimes, several authorities come into play. The institutions like Nepal Police, Armed Police Force, Department of Immigration, Department of Revenue Investigation, and Financial Information Unit are bestowed with overlapping duties. These agencies usually work in silos with inadequate information-sharing procedures rather than as complementing partners.

⁸² 'Weak Implementation of Anti Money Laundering Laws Drags Nepal into FATF Grey List' (8 August 2024) <<https://myrepublica.nagariknetwork.com/news/weak-implementation-of-anti-money-laundering-laws-drags-nepal-into-fatf-gre-42-64.html>> accessed 14 September 2025.

Especially in situations where cooperation with international counterparts is desperately needed, this has resulted in outright neglect in some cases and duplication of effort in others.

- d. The system is further undermined by corruption. Criminal organizations find it simpler to operate with impunity when corruption is ingrained in supervisory organizations. In addition to undermining public confidence in government agencies, this fosters an environment that allows organized crime groups to thrive unchecked.
- e. Certain aspects of the legislations of Nepal appear insufficient. The Human Trafficking and Transportation (Control) Act, for instance, narrowly understands the purpose of trafficking to be majorly for sexual exploitation, overlooking newer forms. Likewise, the Narcotic Drugs (Control) Act, does not address synthetic drugs and precursor chemicals sufficiently. The Extradition Act and Mutual Legal Assistance Act provide a traditional legislative basis for international cooperation in combating transnational crimes. However, in practice, bureaucratic process is slow-moving. The application of the Extradition Act is also limited by scope for it applies only with relation to countries with which Nepal has a treaty arrangement and such countries are little in number.
- f. While Nepal is State party to treaties such as the UN Convention against Transnational Organized Crime and the UN Convention against Corruption, its engagement could be proactive.
- g. At the regional level, SAARC conventions are the relevant legal framework, but the absence of enforcement mechanisms has rendered the law merely symbolic. Political tensions among member states, particularly between India and Pakistan, have time and again halted joint action at the regional level.

Concluding Remarks

The geopolitical location of Nepal is sensitive. It is situated at the intersection of South and East Asia. It shares open border with India. This makes Nepal an enticing hub for transnational crimes. Pairing this with weak governance, interagency clashes, political instability and corruption, transnational crimes pose a strong security threat to Nepal. Nepal is a signatory to important international treaties and has established a fairly extensive legal and institutional framework to combat transnational crimes. The focus has been on smuggling of humans, drugs

and arms. The laws weakly translate into practice. Transnational crimes have statistically been on the rise in terms of scope and frequency. The reasons are economic constraints, interagency clashes, political instability, insidious corruption, technological backwardness. There is constant discrepancy between commitments and realities.

Scrutinising Nepal's context, it is apparent that fight against transnational crimes mandates capacity enhancement, resources utilization, and compliance with international legal norms. Nepal should seek to avail support from organizations like INTERPOL, UNODC, and APG. All in all, Nepal could benefit from a combination of two approaches: enhanced international cooperation and timely domestic reforms. It is imperative that Nepal proceeds to strengthen its defences against transnational crimes and safeguard its security, sovereignty, and development goals through coordinated actions.

