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AD HOC COMMITTEE TO ELABORATE A COMPREHENSIVE INTERNATIONAL CONVENTION ON COUNTERING THE USE OF INFORMATION AND COMMUNICATIONS TECHNOLOGIES FOR CRIMINAL PURPOSES.

# THIRD SESSION: INTERNATIONAL COOPERATION, TECHNICAL ASSISTANCE, PREVENTION MEASURES AND THE MECHANISM OF IMPLEMENTATION

May 2022

From the European Institute for Multidisciplinary Studies on Human Rights and Sciences - Knowmad Institut we consider that a balanced and comprehensive approach that respects the right to anonymity – as part of the right to personal data protection – is key to creating safe spaces in cyberspace and preventing the harmful use of information technologies. The coexistence with seemingly limitless artificial minds and memories, and our growing interest in modifying and expanding our own limited human minds, force us to rethink our world. At the crossroads coexist the privacy and dignity of individuals.

The accelerated development of Information and Communication Technologies (ICT) and the Internet of Things (IoT) has resulted in:

1. The displacement of some crimes from the tangible world to the virtual world.
2. The creation of new crimes that only exist in the digital space.
3. The hybridization of crime in both worlds.
   (Canappele & Aebi, 2017) (Kagita et al, 2020)

When crime is studied, it is done from the criminal point of view, in which the main decider of what is a crime or not is the State and its regulatory framework. Cohen and Felson's (1979) crime triangle summarizes in basic parts the elements of crime: the motivated perpetrator, a suitable victim and a given space. The sum of the three parts generates the opportunity for the commission of the crime. However, crime and the perpetrator are rarely problematized when the perpetrator is the state and the victim is society or democracy. In this sense, it is of great importance to typify and regulate the role of States as perpetrators of crimes or rights violations in the world of ICTs and the Internet of Things.

Specifically, we refer to the regulation and classification of information and intelligence gathering as criminal activities when they threaten the integrity of citizens and democracy.

The outsourcing of espionage and intelligence services, such as the "Pegasus" spyware provided by NSO Group and used by authoritarian governments, poses a risk to the physical integrity of individuals from civil society, journalists, activists, scientists and a threat to democracies.

These services should be highly supervised and regulated by autonomous bodies that evaluate the supply, demand, providers, consumers and purposes of such service. A forensic investigation by Amnesty International (2021) showed that the use of this software is linked to illicit purposes and human rights abuses (Scott-Railton, 2022)(Geldenhuys, 2021)(Marczak et al., 2018)(Scott-Railton, 2016).

Moreover, the COVID-19 pandemic has driven technological innovation and adaptability towards a global market, in which amphetamine-type stimulants and new psychoactive substances (NPS) are available on internet networks. This could trigger accelerated changes in drug use patterns and have implications for public health (UNODC, 2021).

Substance trafficking through strategies featuring ICT patterns is becoming more common every day, with the darknet and cryptomarkets being a notable innovation in the illicit market for controlled substances (EMCDDA & Europol, 2017). But also social networks avoid the need for darknet entry to acquire substances (EMCDDA, 2021) which reduces certain risks.

The analysis of trade data in darknet markets and social networks can lead to the development of useful methods to detect newly emerging psychoactive substances. To consolidate safe spaces on the web, law enforcement and government entities must remember that privacy and anonymity are a fundamental right in our hyper-connected society.

For all these reasons, it is necessary to rethink current strategies and prioritize the concentration of police resources on improving the competencies of incipient specialized cybercrime units, streamlining investigations and boosting funding to investigate the most dangerous and harmful crimes that threaten the general public through the Internet, rather than in the recreational substance markets, where the emerging field of "deflection" (PTACC | Police Treatment Community Collaborative, 2022) can create safe spaces in cyberspace and reduce the pressure on specialized law enforcement.

The crime reduction approach in the digital and physical space through new harm reduction practices and the implementation of deflection can reduce the social, community and family impact of controlled substance use, the financing of terrorism and reduce the liquidity of transnational criminal organizations. Deflection applied in virtual spaces can facilitate cooperation and law enforcement by building bridges between biopsychosocial agents, the community and law enforcement.

Recent studies indicate that people who use drugs (PQUD) and who acquire substances through the use of Information and Communication Technologies (ICT) (Aldride et al., 2018), tend to adopt harm reduction practices, as well as promote "responsible use" under self-determination and pleasure management with privacy and increased safety, when further practiced in their places of residence (Mason & Bancroft, 2018). This does not imply neglecting real threats such as the rise of opioid markets, counterfeit controlled medicines, arms trafficking and child sexual abuse material distributed online (Interpol, 2022) (ECPAT International, 2016).

In the context of pandemic, economic crisis and abrupt socio-political changes, addressing the situation of migrants should be considered as a priority for the international community (because of their particular vulnerability to be victims of trafficking networks where the use of ICTs is increasingly common). By the year 2022 alone, there will be an estimated 281 million international migrants, 26.4 million of whom will be refugees, according to the International Organization for Migration. This situation calls for a multidimensional approach to migration, generating synergies in terms of justice, security, human rights and development.

From the European Institute for Multidisciplinary Studies on Human Rights and Sciences - Knowmad Institut - we urge this committee and the member States to:

- That the International Convention on Countering the Use of ICT for Criminal Purposes to recognizes the negative consequences and lessons learned from the current approach to crimes related to controlled substances.
- Conduct a review and promote appropriate terminology around ICT and IoT-related crime. Precise language helps "detoxify" current narratives and deconstructs legitimized myths around the use of these technologies, the right to anonymity, the legitimate use of Open Source Intelligence (OSINT), the adoption of Bitcoin, cryptocurrencies and digital markets for controlled substances for recreational use, to name a few.
- Recognize that in the case of controlled substances, efficient control is problematic when the market is not regulated by the States, but by Organized Crime; also that in order to educate and reduce harm, it is essential to respect the self-determination of individuals and to seek a balanced and humane regulation of illegalized substances.

- To consider from a multidimensional approach the threat posed by cybercrime related to drugs (especially recreational drugs), as well as to respond accordingly with a humanitarian vision that puts the dignity and safety of people first.
- Build bridges between civil society and law enforcement for the use of OSINT in critical infrastructure security and terrorism prevention programs.
- Recognize that blockchain forensics analysis is one of the best tools for governments to combat cryptocurrency-funded terrorist organizations. Terrorist organizations use crypto crowdfunding to finance their operations around the world, and it is imperative for governments to be up to date (Grauer, 2022). It is easier for law enforcement to trace these operations than those conducted by traditional banking.
- To take into account multidisciplinary professionals, biopsychosocial agents and civil society actors, such as the coalition that makes up the "Rome Consensus 2.0", in the training of those who apply the law, with the support of the United Nations Cybercrime, Prevention of Money Laundering and Combating the Financing of Terrorism Unit.

Finally, we call on the Ad Hoc committee, stakeholders, and the governments you represent to become aware and initiate actions to ensure a healthy transition during the adoption and standardization of emerging technologies in the fourth industrial revolution.

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