

Jayantha Fernando, Sri Lanka

**Cyber Security & Cybercrime
Threats and challenges**

Biggest Global Policy Issue Affecting Nation States



“Digital Crime”???

Computer Crime?

Cyber Crime?

Theft

Terrorism

Drug Trafficking

Murder

Internet Crime?

Technology Crime?

CRIME

Incitement

Deception

Harassment

Robbery

IT Crime?

High-Tech Crime?

Robbery

Identity Theft

Fraud

Child Abuse

Categories of Cybercrime ?

- **Crimes against persons:**
 - Hacking; Phishing; Harassment via E-Mails, Facebook, Twitter etc.; Carding; E-Mail Spoofing: e-mail misrepresents its origin
- **Crime against property:**
 - Cyber Trespass, Cyber Squatting, Malware Transmission; Intellectual Property violations
- **Crimes against government:**
 - Cyber terrorism – Sri Lanka Embassy Network attack - 1997
- **Crimes against society at large:**
 - Child Pornography; Online Gambling fraud; Financial Crimes

Evolving Nature

Challenge of defining Cybercrime?

- Cybercrime is ***not only*** about attacks against Information Systems
 - It's a threat to Core Values of Democratic Societies – data theft, attacks against media, civil society organisations, parliaments, individuals and governments etc (even racism, radicalisation, terrorist misuse of information systems)
 - ***“Traditional Notion of Cybercrime”***
 - **Offences where Electronic Evidence is stored on Computers or servers in the Cloud.** Such Evidence is very volatile and legally complex involving multiple nations and different legal systems
 - ***“Non Traditional”***
 - But recognized under Article 14 (2) and Article 35 of BC

“Cybercrime Challenges for Sri Lanka”

“Multi-National Nature, Tracing e-Evidence – Options”

NEWS

Sri Lankan teller helps bust world's biggest bank fraud

By Feizal Samath

View(s): 5803

- **US\$ 1 billion scam involves China, Bangladesh, Lanka, the Philippines and US Fed**
- **CB launches massive money laundering probe on dubious NGO here**

Sri Lankan authorities have launched a massive probe into a dubious NGO here that tried to sneak in millions of US dollars stolen by Chinese hackers from the Bangladesh Central Bank, government officials here said, adding that this is part of a global crackdown on a money laundering scam.

They said the scam, which hit media headlines across the world, was thwarted two weeks ago by an alert teller at the Colombo branch of a foreign bank when an inward remittance of about \$25 million appeared to be suspicious.

The officials, who declined to be named, said a major probe was underway by the CB to ascertain the background of the intended receiver of the funds. “We found that the recipient NGO Shalika Foundation had been registered here by some outside parties who have now gone back. We are also probing whether there were any other funds that came from the source (hack-in) and had slipped through the radar here.”

Several NGO heads and activists said they had never heard of the Shalika Foundation. “Never heard of it,” said Dr. Vinya Ariyaratne from Sarvodaya. News of the theft, however, broke only this week, several days after the Sri Lankan teller’s query tipped off the US Federal Reserve, Bangladeshi authorities and the local Central Bank (CB),

exposing a near US\$1 billion theft through hacking, the biggest ever hack-in of bank funds in world history. CB Governor Arjuna Mahendran yesterday confirmed to the Sunday Times that “it was the Sri Lankan teller that alerted the US, Bangladesh and us (and the world) over a suspicious transaction”.

Cybercrime : Challenges

- Multi jurisdictional Nature
 - Actions of criminals affects victims in many other countries
 - Where was the offence committed?
 - Which Country has jurisdiction?
 - Evidence in multiple countries (“Evidence in the Cloud”)
 - Speed of MLA Requests?
 - Jurisdiction does not exist for Cyber criminals
 - Speed of International Cooperation essential factor!!
- Global Standard to address these challenges??

Budapest Cybercrime Convention

Privacy Safeguards – Investigation & gathering Electronic Evidence

Criminalising conduct

- Illegal access
- Illegal interception
- Data interference
- System interference
- Misuse of devices
- Fraud and forgery
- Child pornography
- IPR-offences

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Procedural tools

- Expedited preservation
- Search and seizure
- Interception of computer data

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International cooperation

- Extradition
- MLA
- Spontaneous information
- Expedited preservation
- MLA for accessing computer data
- MLA for interception
- 24/7 points of contact (CID)

Harmonisation



Sri Lanka ----

Road to Budapest Convention

- Sri Lanka Invited to accede to Budapest Cybercrime Convention - 23rd February 2015 (process started in October 2008)
- Acceded to the Cybercrime Convention (29th May 2015)
 - Applicable on Sri Lanka – w.e.f - 1st September 2015
- **1st Country in South Asia** & 2nd in Asia after Japan
 - Fastest Accession by any Party to date
- Await a UN Treaty or adopt what's available – “Consensus”?
- Journey towards accession over several years under “**e-Sri Lanka Initiative**” – **Sri Lanka's Digital Strategy**:-
 - Regulatory and Law reform based on “International Standards”
 - Capacity building measures – Law Enforcement & Judicial Training

Sri Lankan Legislative Response & Addressing Challenges

- Primary Legislation – Computer Crimes Act No. 24 of 2007
 - Substantive Cybercrime offences
 - Procedural measures to obtain BSI and Traffic Data with Safeguards
 - Mutual Legal Assistance Act – incorporated by Reference
- **Other Legislative and Inter-connected measures**
 - PAYMENT DEVICES FRAUDS ACT, No. 30 OF 2006
 - Intellectual Property Act, No. 36 Of 2003
 - Recommendations of Financial Action Task Force (FATF)
 - Penal Code Amendments (1995) and (2006) –Online Child Pornography
 - **ICCPR Act (2007) – Offences against Hate Speech etc**
 - **Mutual Legal Assistance in Criminal Matters Act No. 25 /2002 (Amended Act 24 of 2018)**
- **Addressing Challenges through BC**
 - Enforcement capacity? International cooperation - Delays?
 - Gathering and presenting Electronic evidence
 - Challenges addressed through Capacity Building programs and Institutional Reform
 - Easter Sunday Attacks and aftermath