CHINA’S ONE BELT ONE ROAD AND TRANSNATIONAL CRIMES

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Introduction
In 2013, President Xi Jinping of China made an announcement highlighting China’s intention of reviving the ancient Silk Route; the trade route that connected Asia, Parts of Europe, Middle East and Africa through trading routes on land and in the sea. The project was called the One Belt One Road (OBOR) or the Belt and Road Initiative (BRI). The plan caters to a ‘belt’ of roads, called the Silk Road Economic Belt which connect China with Central Asia, Europe, Russia, the Persian Gulf, the Mediterranean Sea, South Asia and South East Asia. The plan also speaks of a ‘road’ as a reference to the 21st Century Maritime Silk Road. The other is a network of sea routes connecting China to Europe, Africa and the Middle East through the Indian Ocean, the South China Sea and parts of the Pacific Ocean. Many countries have expressed their desire to participate in the initiative, and agreements have been made with many countries and negotiations are on with others. For most countries, the biggest ‘pull’ to the initiative is increased foreign investment, which should take care of their internal shortcomings related to infrastructure. Many people also believe that this will serve as an opportunity for the States involved to provide goods and services. This would help them capitalize their economies. 60 States have agreed to be a part of OBOR while 48 more have expressed a desire to be part of it.

Image 1: The broken line represents the 21st Century Maritime Silk Route and the unbroken one represents the Silk Road Economic Belt.(Image Source: CLSA1)

Historical Perspective
The Ancient Silk Road was perhaps one of the most efficient network of trade routes to have existed in the history of mankind. Most prominently, from 130 BCE to 1453 CE, it

was a web of trade routes that spread across Central Asia, reaching the Mediterranean Sea, thriving for not just years, but centuries. The route became a medium for the spread of Chinese social links across the continent, therefore forwarding not just trade and commerce, but also promoting cultural exchange. Established by the Han Dynasty, the route actually began with the traders, owing allegiance to the dynasty, being harassed by the nomadic tribes in Xiongnu towards the West and the North. To defeat the nomads, Emperor Wu negotiated help from the Yuezhi people. This interaction lead to a contact with various civilizations and cultures of Asia, which further opened up the doors for trade with other empires in the region.

When the silk route was closed off in 1453 by the Ottoman Empire, merchants began to trade through sea routes which eventually lead to the Age of Discovery.

Present Status
To facilitate the strategic planning and implementation of the project, China organized the Belt and Road Forum in May 2017 where heads of states from 29 States and other high level delegations from concerned states met in Beijing. India did not participate in the Forum stating that it undermines and violates India’s sovereigntysince the China Pakistan Economic Corridor (CPEC); one of the most important projects within OBOR, passes through territory that belong to India but currently under occupation by Pakistan.

For the proper implementation of OBOR, all important government policies in China have been interlocked with it. Policies have been divided into national and city level policies and three economic circles have been recognized to be the driving forces:
- Guangdong, Macau and Hongkong.
- Hunan.
- Beijing, Tianjin and Hebei.

The Chinese economy has traditionally been manufacturing based. Therefore, the surplus capacity in manufacturing has often been the most important factor in the growth of its economy. With OBOR, China’s aim is to use this surplus capacity to reach out to the beneficiaries with the associated lure of facilitating infrastructural and trade growth even within areas of the recipient countries that will be connected via the OBOR. It is apparent that China will expand from the infrastructure it lays out for this project. After all, the eventual aim should that be of establishing trade and markets around the world, and not just the areas under OBOR.

If China is to establish OBOR successfully, it will need to improve the infrastructure in the associated States first, which will require for it to have deep pockets. While the country has better financial resources than most other States in the area, its total debt-to-GDP or total debt has crossed 304% of the GDP as of May 2017. A high debt-to-GDP is considered bad since it means that the country is less likely to be able to pay back its debt. So, to raise funds for the

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projects under OBOR, China has dedicated USD 100 Billion for the setting up of the following 3 infrastructural funds:

- Silk Road Infrastructure Fund
- Asian Infrastructural Investment Bank
- New Development Bank

In addition to this, China has already signed twelve agreements for free trade with Singapore, Chile, Costa Rica, Switzerland, Taiwan, Pakistan, Peru, Iceland and Hong Kong while negotiations are on for eight more such agreements with Japan, Australia, Norway, Korea, Sri Lanka, the Regional Comprehensive Economic Partnership (RCEP), the Gulf Cooperation Council and the Association of South East Asian Nations (ASEAN).

At the Belt and Road Forum in May 2017, 270 deliverable goals were identified and agreed upon. 30 heads of States signed a joint communiqué for cooperation in infrastructure and trade across Asia, Africa and Europe. Despite all the agreements and the planning, there was no establishment of an institutional framework.

Stumbling Blocks for China

While all of the big plans have been made, and the processes begun for connecting the trade with the world, there are a few hurdles that China will have to somehow overcome.

1. Poor Infrastructure in South East Asia:
   The infrastructure in South Asia and South East Asia is poor, to say the least. Problems such as lack of education and employment, and poverty have as such created significant difficulties for countries to create a strong economy. Add to that the difficult terrain in the Himalayan region; the situation with regards to connectivity and infrastructure will continue to remain poor. From what is visible right now, China’s plan is to provide the financial assistance and the technological know-how to these States so as to help them overcome the infrastructural obstacles. The availability of funds notwithstanding, the poor educational and technical threshold of these countries will continue to be a thorn in the otherwise smooth plan. For free trade to happen successfully, the way OBOR envisions it, the existence of passageways and trunk roads passing over international borders, duly backed by a pool of trained technicians and support staff at each individual location is a necessity and not desirability. The economic corridors will require the development of roads and railway transport between China and Europe while passing through the 60 countries involved.

Cooperation from Participating States:
According to data by the World Bank, the 60 countries falling in OBOR make for 62.3% of the total population of the world, 38.5% of the area in land and 30% of the global GDP. So if the plan is to be carried out successfully, it requires cooperation from all these states and support from their significant economies and population. Cooperation and intention will also depend on availability of resources and soft skills.

3. Terror Related Hindrances in Participating Countries:
In countries like Pakistan where terror outfits take to vandalizing government projects, CPEC has become an easily available target. For the agitators that want freedom in Balochistan, especially, CPEC is a very easily available target. Such groups and
fringe elements do exist in a fair number of participating countries.

4. **Opposition from India:** The plans under OBOR are a violation of India’s territorial sovereignty. Therefore India has made it sufficiently clear that it will neither participate in the project, nor lend any support. This could be problematic since India is the biggest threat that China faces in the region, both on economic as well as military level. China also needs India’s participation, especially for the construction of the multi-lateral economic corridor passing through Bangladesh, China, India and Myanmar. While China offers the carrot highlighting that the economic corridor would be beneficial for India since it will allow India to trade with economies in South East Asia and also implement (even more strongly) the Indian Act East Policy, the strategic and military risks are too major and India continues to refuse participating in any project under OBOR.

5. **International Discontent:** China’s influence in the participating countries has been increasing due to increased investment and presence of its technical and support staff. Slowly, many countries have already started becoming vary of China, since it could lead to a situation where China could attempt to interfere in the internal matters of the States. The nations that are not in a position to provide the requisite technically qualified pool of manpower are the worst affected. ASEAN and its member states donot have a unified approach towards the project. While some countries welcome it, others pose vehement opposition.

6. **Ongoing Dispute in the South China Sea:** China’s firm standin its claim on the South China Sea has made many countries apprehensive. They fear that it is possible for China to become a dominating party in the State if the financial investment is high. Such a situation may lead to a situation where China may become a de facto dictator.

7. **Suspicion from Russia:** While Russia has welcomed this move as a good investment and infrastructural growth opportunity for the countries in the region, they continue to be suspicious since an increased Chinese presence could lead to change in Russia’s position. Therefore, while overtly it would support the initiative, this support should actually be restricted to the point where Russia is the major beneficiary.

The Belt and Road Forum saw repeated mentioning of countries’ responsibility to create an ‘economic cooperation area’. The Chinese have called OBOR as an open platform for any and all countries that wish to contribute to connectivity around the globe. Orderly trade and free flow of economic factors along with efficient management and allocation of resources has been said to be the driving force behind the initiative. In fact many Chinese officials and authorities have claimed that the long term objective behind this project is peaceful development. Better jobs, medical facility, beautiful environment, education, social security and comfortable living conditions are what a State and its citizens should
expect upon the completion of OBOR and the resultant integration of world through peaceful development.

China has claimed that its primary objective behind formulating and implementing OBOR is to make an area for economic cooperation in the concerned region, which will create an economic market in the region that is integrated and has fair opportunities for those involved.

This however does not justify why China has been fighting hook, line and anchor to implement the plan.

- Counter to the Economic Slowdown: China has been a strong nation historically, having a sphere of influence that has spread pretty wide. The last few decades have seen the country growing at an unprecedented rate. In the last three decades, China has turned itself into a hub for production with its own goods being exported around the world. However, the last few years have seen the country's economy facing an economic slowdown. The government has always planned everything down to the very minute details so that its vast population is not just catered to, but also contributes to the growth of the nation. However, in the upcoming slowdown, it is quite possible that jobs become scarce. In such a situation, OBOR will be the perfect measure for China to resolve its problem of the economic slowdown, since it will help China create employment and investments outside the country and therefore boost its economy.

- Fixing of Development lag in West and Central China: The country has a good level of development and infrastructural expertise. Chinese products are sold around the world and its bullet trains are the best, second only to Japan. However if one is to look at the various sectors of the China, they would notice a certain discrepancy. For example, given below are maps of China’s population density, the transportation network and the distribution of industries across the country.
The maps show a clear lag between various areas of China. East China houses bulk of the Chinese population. In fact, its transportation network and industries are also much more prominent in the Eastern side. Central China and West China are much more unfortunate in all three parameters. There is a lag between the development level in East China and the rest of China. OBOR will connect China to all the planned regions within it through a network of land roads as well as sea routes. For these to work successful, a good connection to the internal parts of China will be crucial. Therefore, the transportation facilities within China will improve. Once the transportation is improved, automatically, industries will spread and therefore population will also spread along the industries and the transportation. Therefore, one possible aim behind OBOR could be to facilitate growth within China while improving growth around China.

- **Opening up of the Economy:** When an economy faces a slowdown, the best way to tackle the situation has been to open up its economy in some or the other way. For many developing nations, this move can change the entire structure of the economy. Many analysts around the world believe that OBOR will become a means for China to open up its economy to outsiders. In a recent move, China opened up its bond markets under specific rules and guidelines. Other such measures should only be expected to follow.

- **Becoming a Better Friend to the Surrounding Region:** As China has grown in power and influence, it has also become isolated. Many could say that China has become the bully in the playfield that most obey so as to avoid getting beaten up. A look into China’s treatment of neighbouring countries, especially those countries with which it has ongoing conflict shows colours of
pressure tactics in its behavior. China is not a part of G7 and other developed countries continue giving it a cold shoulder. China also has a rocky relationship with India, the other country in the region that enjoys the most power and influence. The truth is, China has grown to become quite isolated in the region. Many people believe that with OBOR, China is hoping to improve its relationships with other states in the neighbourhood and become a better friend to them. With this plan, it might be able to integrate itself in the economics of the region in a better way. China has a tendency to tilt towards overcapacity and it is likely that it will redirect it towards ASEAN, Europe and Central Asia.

- **High Debt**: The debt-to-GDP ratio of a country is the ratio of a government’s cumulative debt amount to its Gross Domestic Product (GDP). A low debt-to-GDP ratio is an indicator of good economic condition since it means that the country is producing goods and services capable of being sold and generates revenues as needed to pay back its debt without incurring further debt. However, a high debt-to-GDP is not a good economic sign. This however is what exactly is going on with China. China’s debt-to-GDP currently stands at higher than 300%. A ratio this high means that the country may not be able to pay back its debt in an ideal manner. This is a precarious situation. Successful implementation of OBOR will depend on heavy investments by China into the infrastructure of the participating states. This is why China has established the three financial funds mentioned before. These funds are expected to help China with projects under OBOR and consequently its debt-to-GDP ratio.

- **Shift from Developed Economies to Developing Economies**: China has focused all its actions in such a way that it benefits from any deal or trade it is to be a part of. Therefore, initially all of China’s trade was focused at the developed economies which were willing to take its cheaper goods. Now, however, the demand from the Western developed economies like the US has decreased. Many strategists believe that through OBOR, China is shifting its attention to developing economies where the demand is higher, but cost and quality of production is low. For e.g. in India as well, labour is cheap and goods are also produced at a cheaper price as compared to the other developed nations. However, Chinese goods are even cheaper. Therefore, people in India prefer to buy Chinese manufactured goods. Through its focus on the developing economies in the neighbourhood, China can sustain itself much better than it could under developed economies.

- **Utilization of Human Resource**: China is the most populated country in the world. Which means it has ample availability of human resource. Some of the countries in South East Asia like Cambodia, Singapore, etc. do not have a good human resource. Singapore, for example has a good availability for resources and technological know-how, but doesn’t have the manpower needed to access and further utilize them. When it comes to countries like these, OBOR could be one of those situations wherein multiple problems can be resolved by one simple measure. China’s population could be used
as a plus point to make up for the lack of human resource in those countries and the other countries would be able to gain access to the resources as well as make them available to others who might want to purchase them.

Introduction to Transnational Crimes
Due to globalization and many other factors, states are increasingly facing crimes which cross national borders. Transnational Crimes are crimes which may take place in one or more than one country’s territory but affect multiple countries. This highlights a need for more international cooperation between different states particularly with respect to the issues concerning jurisdiction, enforcement, due process, judicial cooperation, the serving of sentences, etc.

Transnational organized crime, in a literal sense, has a history as old as national governments and international trade. Piracy, cross-border brigandage, smuggling, fraud and trading in stolen or forbidden goods and services are ancient occupations that increased in significance as national states were taking shape. Piracy and cross-border brigandage have now been banished to parts of the world where state authority is weak. However, the other occupations have flourished in recent years in most parts of the world, irrespective of the strength or weakness of the authority of individual states or the collective efforts of the international community.

The UN has identified 18 different categories of transnational crime. These are (i) Money laundering (ii) Terrorist activities (iii) Theft of art and cultural objects (iv) Theft of intellectual property (v) Illicit traffic in arms (vi) sea piracy (vii) Hijacking on land (viii) Insurance fraud (ix) Computer crime (x) Environmental crime (xi) Trafficking in persons (xii) Trade human body parts (xiii) Illicit drug trafficking, (xiv) Fraud bankruptcy (xv) Infiltration of legal business (xvi) Corruption (xvii) Bribery of public officials, and (xviii) Other offences committed by organized criminal groups.

Definition of ‘Transnational Crime’
Transnational crimes have been defined as by the UN Crime Prevention and Criminal Justice Branch as “to identify certain criminal phenomena transcending international borders, transgressing the laws of several states or having an impact on another country.”

The Fourth UN Survey of Crime Trends and Operations of Criminal Justice Systems held in 1976 defined transnational crime as “offences whose inception, perpetration and/or direct or indirect effects involved more than one country.”

Transnational Crime finds it most compelling definition in the United Nations Convention against Transnational Organized Crime, which China ratified in 2003 and which stipulated in Section 3.2 that

“An offence is transnational in nature if:

(a) It is committed in more than one State;


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(b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;

(c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or

(d) It is committed in one State but has substantial effects in another State.6

However, it should be noted that this definition has its potential gaps. For instance, the term “transnational” may be considered misleading, as most of the criminal activities are strictly local and may include only one transnational aspect (like the transport of drugs from the manufacturing site in one state to the market in another state). Nevertheless, the term “transnational crime” covers criminal activities that are not just domestically relevant but have “actual or potential transboundary effects of national and international concern.”7

Incidents of Transnational Crimes

1. North American Free Trade Agreement (NAFTA): A free trade zone was established in North America, signed by Canada, Mexico, and the US in 1992 and came into effect from 1st January 1994. Tariffs were lifted on a significant portion of the goods produced by the parties of the agreement. It was proposed that over a period of 15 years barriers to cross border investment would be eliminated as would the barriers to movement of goods and services.8 Drugs are smuggled into the US and the profits from it are used to purchase weapons. These weapons are then smuggled back into Mexico completing the cycle. This fuels the violence in Mexico and the insatiable drug demand in the US. All of this has become easier with the implementation of NAFTA. The flow of goods and persons has increased as a result if which opportunities for smuggling have also increased.9

India Nepal Border: Nepalese men, women, and children are trafficked from Nepal every year into India as well as other neighbouring countries. The United Nations estimates that approximately 7,000 Nepalese women and girls are trafficked into India every year.10 Human traffickers have utilized the India-Nepal open border to facilitate human trafficking routes.11 There are only 14 checkpoints

10 Dr. Sarasu Esther Thomas, Response to Human Trafficking in Bangladesh, India, Nepal and Sri Lanka, United Nations Office on Drugs and Crime, (Apr. 9, 2018, 11.00AM), https://www.unodc.org/documents/human-
regulating the Indian-Nepali border, which spans over 1,500 kilometers which traffickers are able to exploit.

3. **Illegal Maritime Trade:** Large volumes of trade are shipped by containers. $5.3 trillion of global trade transits through Southeast Asian waters each year. Less than 2% of 500 million containers that are shipped in a year are inspected. Trade in illegal bulk goods such as drugs or counterfeits makes maritime trade a lucrative option. Synthetic drug trafficking has been rated as the most serious illicit trade issue by the UNODC survey in the region. Seizure of methamphetamine has increased from less than 12 tons in 2008 to 36 tons in 2012. The major producers for export are China, Myanmar and India. And it is estimated that the annual income in this region for drug traffickers is over USD 30 billion. The production and consumption of methamphetamine pills have also started to ‘spill over’ from older markets in the GMS into neighbouring countries, such as Brunei, the Philippines and Singapore.

Flow of illegal goods across the border between India, China and South East Asian regions has been increasing because of the poor security and control measures in countries like Myanmar. Conservatively speaking, the illegal flows in South East Asia is estimated at USD 100 billion per year.

**Scope for Transnational Crimes under OBOR**

There have always been opportunities to trade illegal goods across borders in Southeast Asia and in recent years the growth of multinational criminal supply chains has been apparent. As the region increases connectivity creating and strengthening trade linkages, threats arising from trafficking and associated criminality are becoming truly integrated within the region and in connections to regions beyond. The inter-regional economic integration plans connecting China, India and the ASEAN region are likely to increase the challenge and to make life easier for organised crime groups seeking to move bulk chemicals illegally diverted from illicit trade.

Transnational Crimes are global threats, but their effects are felt on a local level just as much as on a global level. When organized crime takes place, especially when at a large scale like transnational, including multiple jurisdictions and governments, it has the ability to destabilize regions, sometimes even entire Countries. Once crime occurs in

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13 Drug Abuse Information Network for Asia and the Pacific (DAINAP), *Annual Report Questionnaire for Brunei Darussalam, the Philippines and Singapore*, United Nations Office on Drugs and Crime (UNODC).


15 Id. at12.
an organized manner, it begins to hollow out the society, propelling locals and local criminals into corruption, racketeering, extortion and other sophisticated crimes. Money is laundered through banking systems and people become victims of identity theft. Human trafficking becomes one of the biggest threats.

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Table 1: United Nations Office on Drug and Crime, “Protecting Peace and Prosperity in South East Asia: Synchronizing Economic and Security Agendas”

When OBOR comes into creation and various infrastructure projects are made functional, the scope for transnational criminals is unlimited. With no clear cut laws or established jurisdiction, the criminals could get away with almost anything, starting from simple things like illegal migrations to major offences like human trafficking and smuggling of drugs across the border. It can also fuel local crime, which in turn drives up costs like insurance premiums and adds to the general level of criminality and insecurity in society.\(^\text{17}\)

**Existing platforms against transnational crimes in Asia**

There are currently a number of mechanisms within the ASEAN community that could be built upon to strengthen cross-border cooperation to secure economic flows against criminal threats.

Useful initiatives in this area have been taken by the Association of Southeast Asian Nations (ASEAN), the ASEAN Regional Forum (ARF) and the Asia Pacific Economic Cooperation (APEC) Forum.

- **South East ASEAN MLAT**: There exists a Regional Treaty on Mutual Legal Assistance signed by member countries of ASEAN, November 29th, 2004. Among the countries in the initiative, Malaysia, Singapore, and Vietnam have signed and ratified the treaty. Cambodia, Indonesia, the Philippines, and Thailand have signed but not ratified it yet. The Treaty obliges parties to render to one another the widest possible measure of MLA in criminal matters, subject to requested state’s domestic laws. The Southeast Asian MLAT provides for many forms of MLA that are commonly found in bilateral treaties, such as taking of evidence, search and seizure, confiscation of assets.\(^\text{18}\)


• **ASEANAPOL:** This is an ASEAN Chiefs of Police forum, which meets regularly to discuss regional matters. They facilitate and coordinate cross-border cooperation on intelligence and information sharing and exchange. Furthermore, they coordinate joint operations and activities involving criminal investigations, the building and maintenance of the ASEANAPOL database, training, capacity building, the development of scientific investigative tools, technical support and forensic science.

• **Asia/Pacific Group on Money Laundering:** The Asia/Pacific Group on Money Laundering is an inter-governmental organisation, consisting of 41 member jurisdictions, focused on ensuring that its members effectively implement the international standards against money laundering, terrorist financing and proliferation financing related to weapons of mass destruction. The APG Secretariat coordinates bilateral technical assistance and training in the Asia/Pacific region for its member countries in order to improve compliance with the global standards. They conduct research and analysis into money laundering and terrorist financing methods and trends to assist law enforcement agencies.

**European Union**

The European Union is a unique economic and political union between 28 European countries that together cover much of the continent. They have abolished border controls between EU countries so that people can travel through Europe freely. This makes it much easier to commit cross-border crimes. EU has kept the transnational crimes in their region under control because of increased cooperation between the member states and various agencies set up to deal with cross border crimes, including Europol, Eurojust and CEPOL. Among them, Europol has arguably played the leading role in tackling transnational organised crime.19

The European Community is a party to the UN Convention against Transnational Organised Crime and its Protocols on the trafficking in persons and the smuggling of migrants by land, air and sea. Legislation has been passed at the EU level to criminalise the trafficking in persons and the facilitation of illegal immigration and for the protection of victims.20

The Financial Action Task Force (FATF) is an inter-governmental body established in 1989. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. The FATF is therefore a “policy-making body” which works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas. EU and


China are members of this organization and so is the Asian Development Bank.\textsuperscript{21}

**Recommendations**

Our recommendations regarding transnational crimes are given below:

1. A fool proof legal framework consisting of legislations and enforcement should be established. The framework should contain details of criminal offences along with clear cut punishments. This should be done under a treaty to be signed by all participating countries. Any such legislation must be ratified by all the participating countries. It is also recommended that a treaty is made under which issues and confusions related to jurisdiction are cleared out.

2. It would also be suggested that pressure is exerted on all countries to abide by the conventions and resolutions on transnational crimes.

3. Countries participating in OBOR need to strengthen their borders by increasing cooperation with other member states. And by setting up of various agencies to monitor and control organized crime. There are currently a number of mechanisms within the ASEAN community that could be built upon to strengthen cross-border cooperation to secure economic flows against criminal threats. Measures taken by the European Union should be adopted as well.

4. **Strong and effective partnerships should be established with the private sector** for the purposes of information gathering, crime prevention and raising awareness. Priority areas should include, the transport, financial, real estate, legal, pharmaceutical, communications and other various sectors.\textsuperscript{22}

5. **Ongoing political instability** in countries close to the borders of the South East Asian countries and transit areas for illicit commodities has the potential to alter trafficking routes and create new illegal migration flows.\textsuperscript{23} All countries participating in OBOR should strive for stability and peace which can be achieved through international cooperation and intervention by other neighbouring countries.

**Conclusion**

India has held its position strongly since the announcement of the plan, hoping that the international community would realize that it is a violation of India’s territorial sovereignty through the CPEC. One would have also thought that China would succumb to the pressure since India is its biggest competitor and having a good relationship with India would be crucial. It can only be hoped that the international community, especially those participating in the venture come to realize the threat that OBOR poses, not just to India but to the world at large since this could easily lead to a situation that ends in neo-colonialism.

With regards to transnational crimes, the recommendations are to promote political stability in countries bordering own country.


\textsuperscript{23}Id. at 25.