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MUTUAL LEGAL ASSISTANCE AND EXTRADITION IN CROSS-BORDER NARCOTICS TRAFFICKING: AN INDIA-BANGLADESH CASE STUDY

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ABSTRACT

The India-Bangladesh border is porous, riverine and difficult to police, but it functions with high efficiency as a transit corridor for illicit narcotics. Both South Asian nations experience two-way flows of pharmaceutical opioids. Capitalising on the distinct structural traits of this network, organised crime syndicates manipulate jurisdictional gaps to carry out extensive trafficking activities. However, the existing legal framework designed to address these crimes was originally formulated to confront an entirely different set of challenges.

The 2013 India-Bangladesh Extradition Treaty (amended in 2016) was negotiated against the backdrop of cross-border insurgency and added procedural simplifications that served those concerns rather than the evidentiary needs of narcotics cases. This study traces the bilateral legal framework, comprising both extradition mechanisms and the 2010 Mutual Legal Assistance Agreement, that governs cross-border narcotics prosecutions between the two states. This paper examines the 2010 Agreements, the 2013 Extradition Treaty as amended in 2016, the Mutual Legal Assistance in Criminal Matters Act 2012 (Bangladesh), the Narcotics Control Act 2018 (Bangladesh), the Narcotic Drugs and Psychotropic Substances Act 1985 (India), Chapter VIII of the Bharatiya Nagarik Suraksha Sanhita 2023 and the relevant multilateral instruments. The argument offered is doctrinal rather than empirical. This paper argues that although the bilateral mechanism is structurally established, it remains operationally deficient regarding narcotics offences: the two states already possess a dedicated mutual legal assistance agreement, a companion agreement naming illicit drug trafficking, designated Central Authorities with defined channels of correspondence, and domestic implementing machinery on both sides. What is missing sits a level below. Three structural deficiencies currently weaken this legal framework in drug-related prosecutions: a disparity in evidentiary requirements, a lack of operational protocols tailored specifically to narcotics under existing general agreements, and the absence of a defined mechanism for sharing confiscated assets. To address these challenges, this study recommends establishing a targeted protocol to resolve the evidentiary mismatch and procedural gaps, alongside a dedicated bilateral asset-sharing agreement to govern recovered proceeds.

Keywords: Criminal Law; BNSS; Extradition; India-Bangladesh Extradition Treaty; Mutual Legal Assistance; Narcotics Control Act 2018; Transnational Organised Crime

PART I: INTRODUCTION

A border does not stop a trade route; at most it prices it differently. The land boundary separating India and Bangladesh runs for well over four thousand kilometres, cutting through paddy fields, river channels and

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settlements that often sit closer to a crossing than to their own district headquarters.[1] For decades this boundary has carried two narcotics streams travelling in opposite directions, and each has spawned its own enforcement history, its own seizure statistics, and its own diplomatic anxieties. What it has not spawned, this paper argues, is a legal mechanism capable of moving a trafficking suspect or a piece of trafficking evidence across that same boundary with anything like the speed at which the drugs themselves cross it.

The India-Bangladesh Extradition Treaty of 2013, amended in 2016, is a key component of criminal cooperation between the two states alongside the 2010 Mutual Legal Assistance Agreement. It is, on paper, a reasonably modern instrument: it dispenses with the old requirement that the requesting state produce prima facie evidence of guilt, and it narrows the political-offence exception that has historically shielded fugitives from surrender.[2] Both changes were, however, drafted with a particular fact pattern in mind, that of insurgents and militants crossing the border to escape prosecution for offences connected with organised violence. Narcotics trafficking was never the Treaty's organizing concern, and the paper's central claim is that this history shows in the way the bilateral cooperation apparatus actually functions when a phensedyl or yaba case, rather than an insurgency case, reaches the stage of seeking a foreign arrest or foreign evidence.

The argument proceeds in nine further parts. Part II sketches the trafficking problem itself, drawing on Bangladesh's own Department of Narcotics Control data and UNODC assessments to establish scale and direction. Part III evaluates the extradition framework—comprising the 2013 Treaty alongside its domestic statutory enforcement mechanisms, India's Extradition Act 1962 and Bangladesh's Extradition Act 1974—and assesses what the treaty's documented applications reveal regarding its operational scope. Part IV turns to mutual legal assistance, tracing the statutory routes through which evidence, financial records and witness testimony move between the two jurisdictions. Part V sets out the 2010 Agreements and the Bangladeshi implementing legislation that already exist. Part VI examines the recast of India's domestic assistance framework under the Bharatiya Nagarik Suraksha Sanhita 2023, and Part VII sets that framework against the ASEAN Mutual Legal Assistance Treaty. Part VIII identifies three specific points at which the framework stalls. Part IX proposes a targeted protocol for narcotics cases alongside a dedicated asset-sharing agreement. Part X concludes.

PART II: THE TRAFFICKING PROBLEM: TWO STREAMS, ONE BORDER

Bangladeshi enforcement data describes the borderless as a line rather than as a sieve. The Department of Narcotics Control's own Annual Drug Report for 2025 lists 105 identified trafficking entry points spread across 18 border districts, split roughly between a western and northern corridor fed from India and a south-eastern corridor fed from Myanmar.[3] Officials quoted in that report draw the distinction sharply: cannabis and phensedyl, a codeine-based cough syrup with no legitimate market in Bangladesh in bulk quantities, arrive predominantly from India, while yaba, the amphetamine-type tablet that has defined Bangladesh's drug

1. Ministry of External Affairs, Government of India, 'India-Bangladesh Relations' (MEA, 2024) noting a shared land boundary exceeding 4,000 kilometres; see also Mohammad Jamil Khan and Tousif Kaium, 'The Narcotics Trail: Traffickers Tap 105 Border Points across 18 Districts' The Daily Star (Dhaka, 27 July 2026), citing Department of Narcotics Control (Bangladesh), Annual Drug Report Bangladesh 2025, which records the boundary at 4,156 km (the Ministry of Home Affairs, Government of India, gives 4,096.70 km in its statement of 11 February 2025) and identifies 105 known trafficking entry points across 18 border districts.

2. Treaty between the Republic of India and the People's Republic of Bangladesh Relating to Extradition (signed 28 January 2013, as amended 2016) art 10, which dispensed with the requirement to furnish prima facie evidence and permits an extradition request to proceed on the strength of an arrest warrant issued by a competent court of the requesting state; see also art 6 (political-offence exception).

3. Department of Narcotics Control, Government of Bangladesh, Annual Drug Report Bangladesh 2025 (DNC, Dhaka 2025), identifying 105 border entry points across 18 districts in the western, northern and south-eastern corridors; reported in Mohammad Jamil Khan and Tousif Kaium, 'The Narcotics Trail: Traffickers Tap 105 Border Points across 18 Districts' The Daily Star (Dhaka, 27 July 2026).

economy for two decades, arrives predominantly from Myanmar.[4] Phensedyl's route is the older and better documented of the two. Manufactured legally in factories along India's eastern border states since the early 1980s, it crosses into Bangladesh using forged transport documentation, often concealed within licit cargo, because of restrictions on the sale and consumption of alcohol in Bangladesh, which operate through a permit and licensing regime rather than a blanket prohibition, left a gap in the market for a codeine-based substitute that Indian producers were positioned to fill.[5]

Yaba moves the other way, and its supply chain is longer and less controllable by either state acting alone. UNODC and Bangladeshi enforcement sources trace its manufacture to labs in Myanmar's Shan State, from where it is smuggled across the short but poorly governed Bangladesh-Myanmar border around Cox's Bazar and Teknaf before diffusing into the domestic market and, from there, into India.[6] The scale involved is not trivial. A December 2023 UNODC assessment of illicit financial flows attaches an average outward figure of USD 481 million a year to Bangladesh's cross-border trade in heroin, yaba and pharmaceutical opioids including phensedyl and buprenorphine across the 2017–2021 period, a figure that aggregates these three product lines into one estimate rather than reporting them separately. Reading them as a single, functionally continuous illicit economy is the interpretation adopted in this paper, not a characterisation offered by UNODC.[7] Information shared by Bangladesh's Department of Narcotics Control with Indian counterparts has, in turn, pointed to suspected yaba manufacturing activity within West Bengal itself, raising the possibility that a trade historically framed as originating in Myanmar is beginning to acquire an Indian production node of its own.[8]

What both streams share is a reliance on networks rather than individual couriers, a pattern consistent with wider assessments of organised crime along the India-Bangladesh-Myanmar tri-border belt, where drug smuggling, human trafficking and small-arms movement tend to overlap within the same criminal networks rather than operating as separate enterprises,[9] and it is at the level of networks, financiers and forwarders, that prosecution actually has to occur if it is to disrupt supply rather than merely intercept a single shipment. A courier caught with a consignment can be tried entirely within the territory where the seizure occurs; the person who financed the consignment, arranged its onwards sale, or laundered its proceeds through a bank account in the other country cannot be, unless that second country's legal system can be persuaded quickly enough to matter, to hand over the person or the evidence needed to convict them. It is this second category of case, the financier or the network operator rather than the courier, that the extradition and mutual legal assistance

4. Annual Drug Report Bangladesh 2025 (n 3).

5. UNODC Regional Office for South Asia, 'India-Bangladesh: Trafficking and Abuse of Pharmaceuticals - An Issue of Growing Public Concern' (UNODC, April 2010) (interview describing forged-documentation smuggling of phensedyl across the Tripura border).

6. 'Bangladesh at the Hub of Three Drug Trafficking Regions', Prothom Alo (7 January 2022), describing a virtual meeting between the Department of Narcotics Control and Indian counterparts in October 2021 at which Bangladesh shared information on suspected yaba manufacturing sites in West Bengal.

7. UNODC, 'Illicit Financial Flows Related to Cross-Border Drug Trafficking Are Comparable to the Value of Exports of Licit Markets, UNODC Report Shows' (December 2023), recording an annual average outward illicit financial flow of USD 481 million from Bangladesh's cross-border trade in heroin, methamphetamine tablets ('yaba') and pharmaceutical opioids including phensedyl and buprenorphine over 2017–2021.

8. Prothom Alo (n 6).

9. Nasrin Akter and others, 'The Role of Transnational Organized Crime in Bangladesh's Border Areas' (2025) ResearchGate preprint, describing the entanglement of drug smuggling, human trafficking and arms trade along the India-Bangladesh-Myanmar tri-border belt.

framework examined below has to serve, and it is this category of case where the framework's shortcomings are most consequential.

PART III: THE EXTRADITION FRAMEWORK

The 2013 Treaty rests on the ordinary architecture of a modern extradition instrument. Article 2 requires dual criminality: the conduct must be an offence carrying at least one year's imprisonment under the law of both states, a threshold that narcotics offences under either country's law clear comfortably.[10] Article 6 preserves a political-offence exception but expressly excludes from its scope a defined list of serious offences, and whether organised narcotics trafficking falls outside that exception has not, so far as the public record shows, been settled in any reported decision under the Treaty. Notably, unlike murder and terrorism-related offences, narcotics offences are not specifically named in the Treaty text.[11] That gap in drafting is not fatal in practice, since a straightforward trafficking charge would rarely attract a plausible political-offence argument in the first place, but it does mean the exception's boundaries in a narcotics case have never been tested and remain, formally, open.

The most consequential change came through the 2016 amendment to Article 10, which removed the earlier requirement that the requesting state supply prima facie evidence of the alleged offence and substituted a lower threshold: production of an arrest warrant issued by a competent court in the requesting state.[12] This shift proved pivotal in insurgency cases, where requesting states are frequently hesitant to share sensitive intelligence material—even with a treaty partner. Yet, this modification was not the mechanism behind the return of ULFA leader Anup Chetia. Having remained in Bangladeshi custody for approximately eighteen years—predominantly prior to the Treaty's establishment—Chetia was returned in November 2015 via deportation following the completion of his sentence, rather than through the Treaty itself or its subsequent amendment.[13] Publicly reported extraditions under the instrument remain few, and none involve narcotics cases.

This matters because a lower evidentiary bar at the extradition stage does not translate into a lower evidentiary bar at trial. Once a suspect is surrendered on the strength of an arrest warrant, the requesting state's prosecutors still have to prove the underlying offence to the ordinary criminal standard, and in a narcotics case that proof typically depends on forensic chemical analysis of the seized substance, an unbroken chain of custody, and, where the charge concerns financing or conspiracy rather than possession, financial records held in the other jurisdiction. The 2016 amendment solved the problem of getting the person across the border; it did not solve the separate and, for trafficking cases specifically, more important problem of getting the evidence across the border in an admissible form. That second problem falls to the domestic extradition statutes and to mutual legal assistance, and it is here that the framework's narcotics-specific weaknesses become visible.

The execution of extradition requests under the Treaty on the Indian side is governed by the statutory procedures of the Extradition Act 1962: this entails issuing a Central Government notification, conducting a judicial inquiry before a magistrate to determine if a prima facie basis for surrender exists, and guaranteeing the

10. Treaty between the Republic of India and the People's Republic of Bangladesh Relating to Extradition (signed 28 January 2013) art 2.

11. India-Bangladesh Extradition Treaty 2013 (n 2) art 6.

12. India-Bangladesh Extradition Treaty (signed 28 January 2013, as amended 2016) art 10 (n 2).

13. 'Anup Chetia: Bangladesh 'hands over' India rebel leader' BBC News (11 November 2015); Chetia, wanted in connection with ULFA's insurgent activities, had been held in Bangladeshi custody for approximately eighteen years before his transfer, most of that period preceding the 2013 Treaty. Contemporary Bangladeshi reporting describes the transfer as a deportation after sentence rather than a surrender under the Treaty.

right to habeas corpus review prior to physical surrender.[14] Bangladesh's parallel domestic statute, the Extradition Act 1974, performs a broadly equivalent function on its own side of the border.[15] Drafted as general-purpose instruments to implement the Treaty, neither statute includes specific provisions for narcotics offences. Consequently, both laws fail to define procedures for authenticating forensic or financial evidence produced in the requesting state for use within the other nation's judicial system.

Indian courts have given these provisions a clear construction on two points that matter here. In *Sarabjit Rick Singh v Union of India* the Supreme Court held that an extradition inquiry is not a trial: no witness is examined to establish the offence, and the magistrate's task is to decide whether a case for surrender is made out rather than to test the evidence as a trial court would.[16] In *Daya Singh Lahoria v Union of India* the Court applied the rule of speciality embodied in section 21 of the Extradition Act 1962, under which a person surrendered may be tried only for the offence for which extradition was granted or a lesser offence disclosed by the same facts.[17] Together the two decisions describe a surrender process that is deliberately light on evidence at the front end and tightly constrained in what may be prosecuted at the back end. Neither feature assists a narcotics prosecution that depends on foreign-generated forensic and financial material surviving scrutiny at trial.

PART IV: MUTUAL LEGAL ASSISTANCE: THE WEAKER, LESS VISIBLE TRACK

Extradition answers the question of where a person stands trial. It does not answer the question of how the evidence needed to convict them gets to that trial, and for narcotics cases, where conviction typically turns on forensic and documentary proof rather than eyewitness testimony, that second question is often the harder one. India's mutual legal assistance route ran, until 1 July 2024, through Chapter VIIA of the Code of Criminal Procedure 1973, sections 105A to 105L,[18] supplemented by sections 166A and 166B, which governed the transmission, reception and execution of letters of request from a foreign court or authority.[19] Requests were centrally routed: they arrived at the Ministry of External Affairs and were forwarded to the Ministry of Home Affairs' Central Authority, which assessed completeness before involving the relevant enforcement agency.[20] As

14. Extradition Act 1962 (India) ss 3–5.

15. Extradition Act 1974 (Bangladesh) s 3.

16. Sarabjit Rick Singh v Union of India (2008) 2 SCC 417.

17. Daya Singh Lahoria v Union of India (2001) 4 SCC 516; Extradition Act 1962 (India) s 21.

18. Code of Criminal Procedure 1973 (India) ch VIIA, ss 105A–105L, inserted by the Code of Criminal Procedure (Amendment) Act 2005.

19. Code of Criminal Procedure 1973, s 166B.

20. Ministry of Home Affairs, Government of India, Comprehensive Guidelines on Mutual Legal Assistance in Criminal Matters (2019) paras 1.1–1.3, noting that India had concluded MLAT arrangements with 42 countries as of November 2019 and that requests are channelled through the Central Authority (IS-II Division, MHA) after routing through the Ministry of External Affairs.

of the Ministry's own 2019 guidelines, India had concluded MLAT arrangements with 42 countries, a list that includes Bangladesh through the 2010 Agreement on Mutual Legal Assistance in Criminal Matters.[21]

This is itself worth pausing on. While India and Bangladesh maintain separate instruments—the 2010 Mutual Legal Assistance Agreement and the 2013 Extradition Treaty—both functions are routed through the same Central Authority channel. Consolidating both functions within that shared channel may be administratively convenient, but it also means that narcotics-related assistance requests compete institutionally with the far higher-profile security and insurgency-related traffic that the bilateral relationship was historically built to handle, and there is no statutory or administrative mechanism that gives a time-sensitive trafficking evidence request priority, or even parity, alongside a security request working through the same Central Authority channel.

The NDPS Act 1985 itself contributes comparatively little to this picture. It penalises financing and harbouring in connection with drug offences under section 27A, reaching conduct that facilitates trafficking even where the financier never physically handles the substance, but the Act does not establish a comprehensive international cooperation channel of its own; assistance for an NDPS case was obtained through the general CrPC mechanism described above.[22] On the Bangladeshi side, the Narcotics Control Act 2018 is more explicit: section 66 imposes what the Act itself terms an "obligation for mutual cooperation," and the Act separately authorises the Government to permit a controlled delivery, allowing narcotics to be tracked across the border under surveillance rather than seized immediately, in cooperation with a foreign state's authorities.[23] The Act also assigns evidentiary value to certain scientific and photographic material, including recorded conversations and forensic reports, a provision that, read generously, could support recognition of an Indian forensic certificate in a Bangladeshi prosecution, though the provision has not, so far as the public record shows, been tested for that specific purpose.[24] Bangladesh's own account of the 2018 reform links this evidentiary modernisation to a wider push to align domestic law with money-laundering prevention obligations, suggesting that the legislature had cross-border financial cooperation in mind even where the text does not say so explicitly.[25]

Behind both domestic frameworks sit three multilateral instruments that neither state can be said to have fully operationalised at the bilateral level. The 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances obliges parties to afford one another the widest measure of mutual legal assistance in narcotics investigations and prosecutions, extending expressly to the identification, tracing, freezing and forfeiture of proceeds.[26] The UN Convention against Transnational Organized Crime, to which both India

21. MHA, Comprehensive Guidelines on Mutual Legal Assistance in Criminal Matters (n 20).

22. Narcotic Drugs and Psychotropic Substances Act 1985 (India) s 27A.

23. Narcotics Control Act 2018 (Bangladesh), Act No 63 of 2018, s 66 (obligation for mutual cooperation), read with ss 35 and 2(15) (controlled delivery), which permit the Government to authorise, in writing, a controlled delivery in cooperation with a foreign state.

24. Narcotics Control Act 2018 (Bangladesh) s 56 (evidentiary value of scientific and forensic reports).

25. Md Abdus Sabur Mondal, Statement of Bangladesh to the 65th Session of the UN Commission on Narcotic Drugs (UNODC, March 2022), noting the enactment of the Narcotics Control Act 2018 to incorporate money-laundering prevention measures and revised penal provisions.

26. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (adopted 20 December 1988, entered into force 11 November 1990) 1582 UNTS 95, art 7.

and Bangladesh are parties, contains its own detailed mutual assistance provisions, including a requirement that requests be executed in accordance with the requested state's domestic law but "as soon as possible."[27] At the regional level, the SAARC Convention on Narcotic Drugs and Psychotropic Substances commits member states to cooperate in investigation, prosecution and information-sharing on drug offences specifically.[28] Each of these instruments supplies a legal basis for fast, narcotics-specific cooperation; what neither state has done, as Part VIII shows, is build beneath the 2010 Agreement and multilateral instruments a narcotics-specific operating protocol specifying forms, service standards and designated points of contact between the Narcotics Control Bureau and the Department of Narcotics Control.

PART V: THE 2010 AGREEMENTS: AN ARCHITECTURE ALREADY IN PLACE

The 2013 Extradition Treaty was not the first instrument of criminal cooperation between the two states. During Prime Minister Sheikh Hasina's state visit to India in January 2010, India and Bangladesh signed three agreements: on Mutual Legal Assistance in Criminal Matters,[29] on the Transfer of Sentenced Persons, and on Combating International Terrorism, Organised Crime and Illicit Drug Trafficking.[30] The Minister of External Affairs informed Parliament in September 2011 that all three had been ratified and were in force,[31] and Bangladesh appears on the Ministry's published list of States with operational mutual legal assistance treaties.[32]

Two consequences follow. A dedicated bilateral mutual legal assistance instrument has existed since 2010, three years before the extradition treaty, and illicit drug trafficking is named in the title and subject matter of a companion agreement concluded on the same day. Whatever else may be said of the bilateral relationship, it cannot be said that the two states have never addressed narcotics cooperation in a dedicated instrument.

The implementing machinery on the Bangladesh side is similarly developed. The Mutual Legal Assistance in Criminal Matters Act 2012 was enacted to provide for inter-State assistance in enquiry, prosecution and judicial proceedings, expressly including the freezing and seizure of proceeds of crime and

27. United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 29 September 2003) 2225 UNTS 209, art 18(17), (24).

28. SAARC Convention on Narcotic Drugs and Psychotropic Substances (signed 23 November 1990, entered into force 1993) arts III-IV.

29. Agreement between the Government of the Republic of India and the Government of the People's Republic of Bangladesh on Mutual Legal Assistance in Criminal Matters (signed 11 January 2010), reproduced in UNODC, Compendium of Bilateral and Regional Instruments for South Asia: International Cooperation in Criminal Matters (Volume I, UNODC Regional Office for South Asia and Terrorism Prevention Branch, New Delhi 2015) 181.

30. Agreement between the Government of the Republic of India and the Government of the People's Republic of Bangladesh on Combating International Terrorism, Organised Crime and Illicit Drug Trafficking (signed 11 January 2010), reproduced in UNODC Compendium (n 29) 196. The third instrument signed that day was the Agreement on Transfer of Sentenced Persons, UNODC Compendium (n 29) 189.

31. Statement of the Minister of External Affairs on the Prime Minister's visit to Bangladesh (8 September 2011), recording that the Agreements on Mutual Legal Assistance in Criminal Matters, Transfer of Sentenced Persons and Combating International Terrorism, Organised Crime and Illicit Drug Trafficking had been ratified and were in force.

32. Ministry of External Affairs, Government of India, 'Mutual Legal Assistance in Criminal Matters', listing Bangladesh among the States with which India has an operational mutual legal assistance treaty.

terrorist property.[33] Section 3 requires the Government to designate a Central Authority by notification, and section 4 gives that authority the functions of receiving, assessing, transmitting and following up requests.[34] Section 8(3) lists the forms of assistance available: locating or identifying persons, taking testimony, issuing the process of a foreign court, producing original or certified banking, financial, corporate and commercial records, making arrested or other persons available, and enquiry and confiscation.[35] The Act is supplemented by rules made under it and by an implementation guideline issued by the Ministry of Home Affairs.[36]

Section 9 bears directly on the routing argument. States that have an agreement with Bangladesh address their requests to the Central Authority; only States without such an agreement are required to proceed through the diplomatic channel.[37] India, having concluded the 2010 Agreement, falls into the first category. The proposition that bilateral narcotics assistance is structurally confined to diplomatic routing therefore cannot be sustained as a matter of Bangladeshi law. What the Act introduces instead is a different kind of friction. Section 5 establishes an Advisory Board, drawn from the Attorney General's office and the Ministries of Home Affairs, Defence, Foreign Affairs and Finance among others, to advise wherever sovereignty, national security, important public interest, international relations or military offences may be engaged, and section 7 makes the Central Authority's decision final subject only to reference to the Minister in charge of law.[38] Section 10 then sets out nine grounds on which a request may be refused or suspended, including a broad ground covering sovereignty, national security, public order and international relations.[39] The architecture is not slow merely because it is diplomatic. It is discretionary at a political level, which is a different problem and calls for a different remedy.

Several features that the comparative discussion below identifies in the ASEAN treaty are already present in Bangladeshi law. Section 18 authorises testimony, statements and identification to be provided by video or audio transmission, with the cost of the link falling on the requesting State.[40] Section 19 provides for search and seizure on a foreign request, and permits the court to admit officers of the requesting State to the search. Sections 22 and 23 allow freezing or seizure of proceeds of crime, instrumentalities of crime or terrorist property on request, and the enforcement of a final foreign confiscation order.[41] Section 36 provides that evidence, documents and information taken under the Act are admissible in court.[42]

33. Mutual Legal Assistance in Criminal Matters Act 2012 (Bangladesh), Act No 4 of 2012 (MLA Act 2012), long title and s 2(1).

34. Mutual Legal Assistance in Criminal Matters Act 2012 (Bangladesh) ss 3–4.

35. MLA Act 2012, s 8(3).

36. Mutual Legal Assistance in Criminal Matters Rules 2013 (Bangladesh), made under s 38 of the Act; Ministry of Home Affairs, Government of Bangladesh, Implementation Guideline for Mutual Legal Assistance in Criminal Matters.

37. Mutual Legal Assistance in Criminal Matters Act 2012 (Bangladesh) s 9(1)-(2).

38. MLA Act 2012, ss 5, 7.

39. MLA Act 2012, s 10, in particular s 10(5).

40. MLA Act 2012, s 18, read with s 18(4) on costs.

41. MLA Act 2012, ss 19, 22–23.

42. MLA Act 2012, s 36.

Set against this, the deficiency this paper identifies has to be restated more precisely. It is not the absence of a channel. It is the absence of three things. The first is any agreed standard governing what a forensic certificate, chain-of-custody record or seizure memorandum generated in one State must contain to carry weight in the courts of the other. Section 36 of the Bangladesh Act makes incoming material admissible, but admissibility and evidential weight are not the same thing, and the presumptions on which the NDPS Act relies operate on Indian-generated documentation in ways that foreign material is not drafted to satisfy (see Part VIII). The second is any operating protocol beneath the general instruments: forms, service standards, narcotics desks within the two Central Authorities, and a defined point of contact between the two national narcotics agencies. The third is any provision governing the division of recovered proceeds. Section 25 of the 2012 Act leaves the disposition of confiscated proceeds to a Bangladeshi court, subject to the final decision of the requesting State's court, without a sharing formula.[43] Chapter VIII of the Sanhita is silent on the same question.[44]

Reframed this way, the reform question is not how to create a channel but how to make an existing one perform in a category of case it was not designed around. That reframing also changes what the comparative material in the next part is being asked to illustrate.

PART VI: THE BNSS RECAST: CHAPTER VIII AND INDIA'S NEW ASSISTANCE ARCHITECTURE

The Indian half of the framework set out above no longer exists in the form just described. The Code of Criminal Procedure 1973 was repealed and replaced by the Bharatiya Nagarik Suraksha Sanhita 2023, brought into force on 1 July 2024.[45] Chapter VIIA and its sections 105A to 105L have given way to Chapter VIII of the Sanhita, headed 'Reciprocal Arrangements for Assistance in Certain Matters and Procedure for Attachment and Forfeiture of Property', running from section 111 to section 124.[46] Any assessment of India's capacity to assist a Bangladeshi narcotics prosecution, or to secure assistance for one of its own, now has to be made against this chapter rather than its predecessor.

The recast is more than renumbering and less than reinvention. Much of the old chapter survives in substance. What has changed is arrangement: the scattered material of Chapter VIIA and sections 166A–166B of the Code is now gathered into a single sequence running from definitions through letters of request to attachment, forfeiture and the disposal of forfeited assets. That sequencing is itself worth registering, because the old chapter treated evidence-gathering and asset recovery as loosely related topics, while the new one treats them as stages of one process.

Section 111 opens with definitions that shape everything after it. A 'contracting State' is any country or place outside India with which the Central Government has made arrangements, whether through a treaty or otherwise, which brings Bangladesh within the chapter by virtue of the 2010 Agreement on Mutual Legal Assistance in Criminal Matters. 'Identifying' is defined to include establishing proof that property was derived

43. MLA Act 2012, s 25.

44. Bharatiya Nagarik Suraksha Sanhita 2023, ss 115–122, which provide for attachment, forfeiture and disposal but make no provision for the division of recovered proceeds between the requesting and requested States.

45. Bharatiya Nagarik Suraksha Sanhita 2023 (India), s 531 (repeal and savings); the Sanhita was brought into force with effect from 1 July 2024, from which date the Code of Criminal Procedure 1973 stood repealed.

46. Bharatiya Nagarik Suraksha Sanhita 2023 (India), ch VIII, ss 111–124, replacing ch VIIA (ss 105A–105L) of the Code of Criminal Procedure 1973 (n 18).

from, or used in, the commission of an offence. 'Proceeds of crime' reaches property derived or obtained directly or indirectly from criminal activity, expressly including crime involving currency transfers, as well as the value of any such property, and 'property' is cast widely enough to cover corporeal and incorporeal, movable and immovable assets alike.[47]

These definitions carry weight for the trafficking economy described in Part II. Money made from a phensedyl or yaba consignment rarely stays in the form it was received. It is broken up, moved through cash couriers and informal value-transfer channels in the border districts, and surfaces again as land, vehicles or trade receivables held in somebody else's name. A definition reaching indirect derivation, currency transfers and value equivalents is capable of following that movement. A narrower one would have stopped at the consignment and the courier.

Sections 112 and 113 carry the evidentiary load. Section 112 allows a criminal court in India, on the application of an investigating officer or otherwise, to issue a letter of request to a competent authority in a contracting State where it is satisfied that evidence relevant to an investigation or trial may be available there, the material so obtained being treated as evidence collected in the course of investigation.[48] Section 113 is the mirror provision, governing India's execution of a letter of request arriving from a foreign court or authority, which the Central Government forwards to a designated court or authority for action.[49] Section 114 extends the framework from documents to persons, providing for assistance in securing the transfer of a person for the purposes of an investigation or proceeding.[50]

The chapter's more substantial contribution lies in what follows. Section 115 requires the Central Government, on receiving a request from a contracting State for attachment or forfeiture of property, to forward it to the appropriate court or authority.[51] Sections 116 and 117 supply the operative steps: identifying unlawfully acquired property, then seizing or attaching it once reasonable grounds are shown.[52] Section 118 addresses the interim, providing for the management of seized or forfeited property pending final orders.[53] Sections 119 to 121 impose procedural discipline, requiring notice to the person affected, a hearing before any declaration of forfeiture, and an option to pay a fine in lieu of forfeiture where the unlawful source of only part of the property has been established.[54] Section 122 renders void any transfer made to defeat these provisions.[55]

47. Bharatiya Nagarik Suraksha Sanhita 2023, s 111(a)-(d).

48. Bharatiya Nagarik Suraksha Sanhita 2023, s 112.

49. Bharatiya Nagarik Suraksha Sanhita 2023, s 113.

50. Bharatiya Nagarik Suraksha Sanhita 2023, s 114.

51. Bharatiya Nagarik Suraksha Sanhita 2023, s 115.

52. Bharatiya Nagarik Suraksha Sanhita 2023, ss 116–117.

53. Bharatiya Nagarik Suraksha Sanhita 2023, s 118.

54. Bharatiya Nagarik Suraksha Sanhita 2023, ss 119–121; s 121(1) permits a fine equal to the market value of that part of the property whose lawful source has not been proved in lieu of forfeiture.

55. Bharatiya Nagarik Suraksha Sanhita 2023, s 122.

For a narcotics financier, this sequence is the part of Indian law most likely to be felt. A courier prosecution ends with a conviction and a destroyed consignment. A financial prosecution that reaches their assets ends with something they notice. Chapter VIII gives an Indian court a route to act directly on a Bangladeshi attachment or forfeiture request, rather than waiting for a parallel proceeding under the Prevention of Money Laundering Act 2002 to be assembled around the same facts.[56]

Two features of the chapter nonetheless leave the difficulties traced in this paper largely where they were. The first concerns routing. Section 123 provides that every letter of request, summons or warrant received from, or to be transmitted to, a contracting State under the chapter shall be transmitted in such form and manner as the Central Government may, by notification, specify.[57] This reproduces the architecture of the repealed Code, and with it the routing described in Part IV. The Sanhita designates no authority empowered to correspond directly with a foreign counterpart agency, and it carves out no express exception for requests that are urgent or time-critical. An evidence-preservation request in a live trafficking case travels the same road as a routine service of summons.

The second is that Chapter VIII is procedure-facing rather than evidence-facing. It prescribes how a request travels and what may be done to property once a request succeeds. It is silent on the standard a foreign forensic certificate, chain-of-custody record or bank statement must satisfy before an Indian court will receive it, and equally silent on what Indian documentation must look like to survive scrutiny in Dhaka. The evidentiary mismatch identified in Part III survives the recast untouched.

Section 124 closes the chapter by empowering the Central Government to direct, by notification in the Official Gazette, that the chapter's application to a particular contracting State shall be subject to such conditions, exceptions or qualifications as the notification specifies.[58] For present purposes this is the most useful provision in Chapter VIII. It supplies an existing statutory hook through which the application of the chapter to Bangladesh could be adjusted by executive notification, without amending the Sanhita and without reopening the 2013 Treaty. It has not so far been used to that end, and the protocol proposed below returns to what such a notification might usefully contain.

PART VII: A COMPARATIVE FRAME: THE ASEAN MUTUAL LEGAL ASSISTANCE TREATY

If Chapter VIII shows what a domestic recast can and cannot repair, a regional instrument drafted for the same problem shows what a treaty can be asked to do. The Treaty on Mutual Legal Assistance in Criminal Matters between ASEAN Member States, concluded at Kuala Lumpur on 29 November 2004, is the closest regional analogue to the operating-level arrangement India and Bangladesh lack.[59] It began as a Malaysian proposal at the eighth ASEAN Senior Law Officials Meeting in Bangkok in June 2002, and was framed from the outset around transnational crime and the practical difficulty of moving evidence between states whose legal

56. Prevention of Money Laundering Act 2002 (India) ss 5, 8, which govern provisional attachment and adjudication and operate independently of BNSS ch VIII.

57. Bharatiya Nagarik Suraksha Sanhita 2023, s 123.

58. Bharatiya Nagarik Suraksha Sanhita 2023, s 124.

59. Treaty on Mutual Legal Assistance in Criminal Matters between ASEAN Member States (signed 29 November 2004, Kuala Lumpur) ('ASEAN MLAT').

systems and procedural requirements differ sharply.[60] It entered into force for each Party on deposit of its instrument of ratification, and ASEAN records general entry into force in 2013; it remains the first multilateral criminal-assistance instrument in the region.[61]

Article 1 commits the parties to render one another the widest possible measure of mutual legal assistance in criminal matters, covering investigations, prosecutions and resulting proceedings. The enumerated forms of assistance run from taking evidence and effecting service of judicial documents to executing searches and seizures, and then to three items of direct relevance here: identifying or tracing property derived from an offence together with instrumentalities of crime, restraining dealings in or freezing such property, and recovering, forfeiting or confiscating it.[62] That catalogue is close in substance to the forms of assistance listed in section 8(3) of the Bangladesh Act, which is the point worth registering: the difference between the two regimes lies less in what assistance is available than in the obligations attached to delivering it.

The ASEAN treaty makes a structural choice that repays comparison with the bilateral position. Article 2 excludes from its scope the arrest or detention of a person with a view to extradition, the transfer of sentenced persons, and the transfer of criminal proceedings.[63] Mutual legal assistance is thus kept deliberately apart from surrender, each left to its own instrument and its own threshold. India and Bangladesh have reached the same separation by a different route, through a standalone mutual legal assistance agreement in 2010 and a separate extradition treaty in 2013, reinforced by section 8(4)(a) of the Bangladesh Act, which excludes detention for extradition purposes from the scope of assistance. On this point the two regimes converge, and the ASEAN text supplies confirmation rather than contrast.

Article 3 sets out the grounds on which assistance must or may be refused, and two of them repay attention. Assistance is to be refused where the conduct would not have constituted an offence in the requested party, except that the requested party may nonetheless assist in the absence of dual criminality where its domestic law permits.[64] That is a softer threshold than the one applied to surrender, and it reflects a judgement that helping another state gather evidence is a smaller intrusion than handing over a person. More striking still, assistance shall not be refused solely on the ground of secrecy of banks and similar financial institutions, or because the offence is also considered to involve fiscal matters.[65] In narcotics financing cases, where the evidence that matters sits in bank records rather than in a seizure memo, a clause of this kind removes what is often the most effective ground of resistance available to a reluctant requested state.

The treaty's handling of channels is its sharpest departure from Chapter VIII. Article 4 requires each party to designate a Central Authority to make and receive requests, and provides that these authorities shall

60. ASEAN, 'Treaty on Mutual Legal Assistance in Criminal Matters' (ASEAN Main Portal), recording the instrument's origin in a Malaysian proposal at the 8th ASEAN Senior Law Officials Meeting, Bangkok, 15–16 June 2002.

61. Hải Anh Vũ, 'Practices of Mutual Legal Assistance in Criminal Matters between Vietnam and Southeast Asia Countries' (2023) 18(1) International Journal of Criminal Justice Sciences 64, describing the instrument as the first multilateral mutual legal assistance treaty concluded within ASEAN; on entry into force, see ASEAN MLAT (n 59) art 31.

62. ASEAN MLAT, art 1(1)-(2), and in particular art 1(2)(g)-(i).

63. ASEAN MLAT, art 2(1)(a), (c)-(d).

64. ASEAN MLAT, art 3(1)(e).

65. ASEAN MLAT, art 3(5).

communicate directly with one another, the diplomatic channel remaining available only as an option they may choose.[66] Article 5 goes further for urgent matters: requests may be made orally where the law of the requested party permits, subject to written confirmation within five days, and requests and related communications may be transmitted through INTERPOL or the Southeast Asian Police Organization.[67] Direct communication between Central Authorities is not itself novel to the bilateral relationship, since section 9(1) of the Bangladesh Act already routes requests from treaty partners such as India to the Central Authority. What the ASEAN instrument adds is the urgent-transmission route and the five-day confirmation window, neither of which has a counterpart in the 2012 Act or in Chapter VIII of the Sanhita, where section 123 routes every letter of request through the Central Government with no carve-out for time-critical matters. The ASEAN parties treated urgency as a drafting problem to be solved in the treaty text; the bilateral framework leaves it to administrative practice.

On forfeiture, Article 22 obliges the requested party to endeavour to locate, trace, restrain, freeze, seize, forfeit or confiscate property derived from an offence, provided the requesting party supplies the information the requested party considers necessary and encloses the original or an authenticated copy of the relevant order.[68] Two further paragraphs matter more than they first appear. Property forfeited under the article may accrue to the requesting party unless otherwise agreed in a particular case, and the requested party is to transfer an agreed share of recovered property, subject to the costs it incurred in enforcing the order.[69] Chapter VIII has no equivalent. It tells an Indian court how to forfeit property on a foreign request but says nothing about what becomes of the proceeds as between the two states. In a bilateral relationship where much of the money is generated on one side of the border and banked on the other, silence on sharing is not neutral: it removes a good part of the incentive for the requested state to spend enforcement resources on another country's case.

Two smaller features deserve notice in the narcotics context. The treaty permits evidence to be taken through live video or television links wherever that is expedient in the interests of justice, for witnesses generally and for persons in custody alike.[70] It also provides that a document signed with a digital or electronic signature in accordance with the law of the party concerned is as legally binding as one signed by hand.[71] Neither provision is dramatic on its own. Together they answer precisely the friction that causes cross-border narcotics prosecutions to stall: a chemist who cannot travel, and a certificate whose authentication takes longer than the trial calendar allows. Neither technique is foreign to Indian practice. In *State of Maharashtra v Praful B Desai* the Supreme Court held that evidence may be recorded by video conferencing, treating constructive presence as satisfying the requirement that evidence be taken in the presence of the accused, and that a commission may be

66. ASEAN MLAT, art 4(1), (4).

67. ASEAN MLAT, art 5(1)-(2).

68. ASEAN MLAT, art 22(1)-(2).

69. ASEAN MLAT, art 22(4)-(5).

70. ASEAN MLAT, arts 11(3), 14(4) and 15(7).

71. ASEAN MLAT, art 24(4)(a).

issued to record the evidence of a witness located abroad.[72] What is absent is not the judicial technique but a bilateral instrument committing both States to use it in narcotics cases as a matter of course.

The comparison has limits, and they should be stated plainly. The ASEAN treaty is a closed regional instrument; accession requires consensus among the original parties, and neither India nor Bangladesh is a party or is likely to become one.[73] Its value here is as a drafting model rather than an available legal route. Nor has the instrument performed uniformly well in practice. Work on Vietnamese practice under the treaty records continuing delay and uneven domestic execution notwithstanding its broad textual scope, a reminder that a generous scope clause does not by itself produce a faster reply.[74] Capacity in the requested state determines how quickly a request is executed; the treaty determines only whether it can be.

Even with those qualifications, three features of the ASEAN text have no operational counterpart in the bilateral framework under the 2010 Agreement and 2013 Treaty: an express bar on refusing assistance for reasons of bank secrecy or the fiscal character of the offence, an urgent-transmission route carrying a short written-confirmation window, and a forfeiture article that addresses the division of recovered proceeds between the two states. The urgent-transmission route answers the second deficiency identified above, the bank-secrecy bar bears on access to the financial evidence at the centre of the first, and the forfeiture article answers the third; each could be reproduced in a narrow bilateral protocol without the machinery of a multilateral treaty standing behind it.

PART VIII: WHERE THE FRAMEWORK BREAKS DOWN

Three specific weaknesses, rather than any single defect, account for the gap between what this architecture permits and what it is designed to deliver in narcotics cases.

The first is the evidentiary standard mismatch already noted in Part III. The 2016 amendment lowered the bar for extraditing a person; it left untouched the higher, and for narcotics cases more relevant, bar of getting forensic and financial evidence recognised across the border in admissible form. A requesting state that has surrendered its suspect on the strength of an arrest warrant may still find itself unable to prove the case at trial if the chemical analysis certificate, chain-of-custody documentation or bank records it needs remain stuck in the general mutual-assistance queue on the other side of the border. The difficulty is sharpened by the Supreme Court's insistence in *Noor Aga v State of Punjab* that the presumptions in sections 35 and 54 of the NDPS Act cannot be invoked until the prosecution has proved the foundational facts beyond reasonable doubt.[75] Those foundational facts are, in a cross-border case, exactly what foreign documentation must establish, and nothing in either State's assistance regime tells a requesting agency what such documentation has to contain to carry that weight.

The second is the absence of any operating protocol beneath the 2010 Agreement and domestic implementing statutes. The 2010 Agreement and the 2012 Act settle who may ask whom for what; neither

72. State of Maharashtra v Praful B Desai (2003) 4 SCC 601, read with Bharatiya Nagarik Suraksha Sanhita 2023 ss 308 and 320 (formerly Code of Criminal Procedure 1973 ss 273 and 285).

73. ASEAN MLAT, art 30(2), under which accession requires consensus among the original Parties.

74. Vũ (n 61) 64.

75. Noor Aga v State of Punjab (2008) 16 SCC 417 [58]-[60], holding that sections 35 and 54 of the Narcotic Drugs and Psychotropic Substances Act 1985 raise rebuttable presumptions only once the prosecution has established the foundational facts beyond reasonable doubt.

specifies forms, service standards or a narcotics desk within either Central Authority, and neither carves out urgent requests for accelerated handling. A trafficking-linked request therefore has no institutional claim to priority over the security and insurgency-related traffic the bilateral relationship was built around. Comparable regional frameworks elsewhere have carved narcotics trafficking out as a category for which the ordinary dual-criminality requirement is dispensed with: the European Union's Framework Decision on the European Arrest Warrant, for instance, lists illicit trafficking in narcotic drugs among a defined set of offences for which the ordinary requirement of double criminality is dispensed with altogether, on the basis that such offences are sufficiently serious to warrant mutual recognition.[76] No comparable express listing exists in the India-Bangladesh framework.

Routing is the sharpest illustration of that absence. Chapter VIII of the Sanhita routes communications through the Central Government, and the 2019 Guidelines route incoming requests through the Ministries of External Affairs and Home Affairs before an actual enforcement agency, India's Narcotics Control Bureau or Bangladesh's Department of Narcotics Control, ever sees the request.[77] This is standard practice for extradition, where sovereignty concerns justify diplomatic-level oversight, but for a routine evidence-sharing request in a trafficking case, where the two national narcotics agencies already maintain working-level contact, as the October 2021 information exchange on suspected West Bengal manufacturing sites demonstrates, the justification for routing it through the same channel is correspondingly weaker.[78] Neither government publishes, so far as the public record shows, processing times for mutual legal assistance requests by offence category, so the practical cost of that routing cannot be measured from the public record. It can be identified only as a design feature that the instruments themselves leave unaddressed.

The third is the absence of any agreed basis for dividing recovered proceeds. Section 25 of the 2012 Act leaves the disposition of confiscated property to a Bangladeshi court, subject to the final decision of the requesting State's court, and Chapter VIII of the Sanhita provides for attachment and forfeiture without addressing what becomes of the proceeds as between the two States. In a relationship where much of the money is generated on one side of the border and banked on the other, silence on this point is not neutral. It removes a substantial part of the incentive for a requested State to commit investigative and judicial resources to tracing assets in another country's case, which is precisely the work that distinguishes a prosecution of financiers from a prosecution of couriers. The difficulty is not peculiar to this border: comparative surveys of assistance practice across Asia have identified recovery of proceeds as the weakest limb of regional cooperation.[7980]

76. Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the Surrender Procedures between Member States [2002] OJ L190/1, art 2(2), listing categories of offence, including illicit trafficking in narcotic drugs, for which the requirement of double criminality is dispensed with altogether.

77. Bharatiya Nagarik Suraksha Sanhita 2023, s 123; MHA, Comprehensive Guidelines on Mutual Legal Assistance in Criminal Matters (n 20).

78. Prothom Alo (n 6).

79. Matti Joutsen, 'International Cooperation against Transnational Organized Crime: Extradition and Mutual Legal Assistance in Criminal Matters' (UNAFEI, Resource Material Series No 59) 364.

80. OECD and ADB, *Mutual Legal Assistance, Extradition and Recovery of Proceeds of Corruption in Asia and the Pacific: Frameworks and Practices in 27 Asian and Pacific Jurisdictions – Preliminary Report* (ADB/OECD Anti-Corruption Initiative for Asia and the Pacific, ADB, Manila 2007) https://doi.org/10.1787/9789264041325-en

PART IX: TOWARDS A FAST-TRACK PROTOCOL AND ASSET-SHARING FRAMEWORK

The case for reform made here is deliberately targeted. Renegotiating the 2013 Treaty or the 2010 MLA Agreement in their entirety would be slow, and much of what they currently do, particularly regarding insurgency-linked cases, functions reasonably well. What is needed instead is a supplementary, narcotics-specific protocol directly aligned with the first two structural deficiencies identified in Part VIII (evidentiary standard mismatches and operational protocol gaps), combined with a dedicated bilateral agreement addressing the third deficiency (asset-sharing and disposition of recovered proceeds). Together, four core reform elements are proposed.

First, an urgent-transmission route for narcotics-related requests. Requests from treaty partners such as India are already routed to Bangladesh's Central Authority under section 9(1) of the Bangladesh Act; what is missing is a channel permitting India's Narcotics Control Bureau and Bangladesh's Department of Narcotics Control to exchange evidence-preservation and urgent-assistance requests directly in time-critical cases, with written confirmation to follow within a fixed period on the ASEAN model. The existing working-level contact between the two agencies, evidenced by the 2021 information exchange on manufacturing sites, shows that the institutional relationship already exists; what is missing is legal authorisation for that relationship to carry formal requests rather than informal intelligence.[81]

Second, reciprocal recognition of forensic and chain-of-custody documentation. A protocol clause providing that a chemical analysis certificate or chain-of-custody record issued by an accredited laboratory or agency in one state is presumptively admissible in the courts of the other, subject to a right of challenge on specific, stated grounds, would close the evidentiary gap that the 2016 amendment left open. Bangladesh's Narcotics Control Act 2018 already contains language on the evidentiary value of scientific material that could serve as the domestic hook for such a clause on its side; India would need a corresponding amendment to the NDPS Act, the BNSS or the Bharatiya Sakshya Adhiniyam 2023.[82]

Third, a joint controlled-delivery protocol with pre-agreed executive authorisation timelines. Both countries' laws already contemplate controlled delivery in principle, Bangladesh's 2018 Act expressly so, but the practice depends on case-by-case authorisation that can take longer than a live shipment allows.[83] A standing protocol setting fixed authorisation timeframes for cross-border controlled-delivery operations would let agencies commit to joint operations with some confidence that executive clearance will arrive before the shipment does.

Fourth, a dedicated bilateral asset-sharing agreement and standing narcotics working group. To resolve the third deficiency—the complete absence of a mechanism for sharing confiscated proceeds—India and Bangladesh should negotiate a standalone asset-sharing agreement modelled on international practice, establishing a clear formula for sharing forfeited proceeds between requesting and requested states. Alongside this agreement, institutionalizing a standing narcotics working group under existing bilateral security cooperation arrangements will ensure dedicated tracking of pending mutual assistance and asset recovery requests, identifying and addressing operational bottlenecks before cases stall.

81. ASEAN MLAT (n 59) art 5; Prothom Alo (n 6).

82. Narcotics Control Act 2018 (Bangladesh) s 56.

83. Narcotics Control Act 2018 (Bangladesh) ss 2(15), 35; Narcotic Drugs and Psychotropic Substances Act 1985 (India) s 50A.

PART X: CONCLUSION

The India-Bangladesh Extradition Treaty of 2013 is not, on its own terms, a poorly drafted instrument. Its 2016 amendment did what it set out to do, and the return of Anup Chetia via deportation is often cited in discussions on criminal cooperation, though it was not a treaty extradition. The argument of this paper is narrower and, in a sense, less about drafting than about silence: the bilateral architecture is complete on paper across both extradition and mutual legal assistance, yet it answers a narcotics question only incidentally, by extension of general-purpose provisions that were never calibrated to the evidentiary and institutional needs a trafficking case actually has. Phensedyl moving east and yaba moving west will keep finding the gaps in a 4,096.70-kilometre border whatever the legal framework provides.[84] Whether the people who finance, organise and profit from that movement can be reached by law rather than merely inconvenienced by it will depend less on renegotiating what already exists than on building, alongside it, a narrower protocol and asset-sharing framework sized to the problem it actually needs to solve.

Table of Cases

- *Daya Singh Lahoria v Union of India* (2001) 4 SCC 516
- *Noor Aga v State of Punjab* (2008) 16 SCC 417
- *Sarabjit Rick Singh v Union of India* (2008) 2 SCC 417
- *State of Maharashtra v Praful B Desai* (2003) 4 SCC 601

Table of Legislation and Treaties

- Agreement between the Government of the Republic of India and the Government of the People's Republic of Bangladesh on the Transfer of Sentenced Persons (signed 11 January 2010)
- Agreement between the Government of the Republic of India and the Government of the People's Republic of Bangladesh on Combating International Terrorism, Organised Crime and Illicit Drug Trafficking (signed 11 January 2010)
- Bharatiya Sakshya Adhiniyam 2023 (India)
- Agreement between the Government of the Republic of India and the Government of the People's Republic of Bangladesh on Mutual Legal Assistance in Criminal Matters (signed 11 January 2010)
- Bharatiya Nagarik Suraksha Sanhita 2023 (India)
- Code of Criminal Procedure 1973 (India)
- Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the Surrender Procedures between Member States [2002] OJ L190/1
- Extradition Act 1962 (India)
- Extradition Act 1974 (Bangladesh)
- Mutual Legal Assistance in Criminal Matters Act 2012 (Bangladesh), Act No 4 of 2012
- Mutual Legal Assistance in Criminal Matters Rules 2013 (Bangladesh)
- Narcotic Drugs and Psychotropic Substances Act 1985 (India)
- Narcotics Control Act 2018 (Bangladesh), Act No 63 of 2018
- Prevention of Money Laundering Act 2002 (India)
- Protocol amending the Treaty between the Republic of India and the People's Republic of Bangladesh Relating to Extradition (2016)

84. Annual Drug Report Bangladesh 2025 (n 3); the 4,156-kilometre figure is the land boundary with India given in that report, while the Ministry of Home Affairs, Government of India, gives 4,096.70 km (11 February 2025).

- SAARC Convention on Narcotic Drugs and Psychotropic Substances (1990)
- Treaty between the Republic of India and the People's Republic of Bangladesh Relating to Extradition (signed 28 January 2013, as amended 2016)
- Treaty on Mutual Legal Assistance in Criminal Matters between ASEAN Member States (signed 29 November 2004, entered into force progressively 2005–2013)
- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) 1582 UNTS 95
- United Nations Convention against Transnational Organized Crime (2000) 2225 UNTS 209

Bibliography

- Akter N and others, 'The Role of Transnational Organized Crime in Bangladesh's Border Areas' (2025) ResearchGate preprint
- ASEAN, 'Treaty on Mutual Legal Assistance in Criminal Matters' (ASEAN Main Portal)
- Asian Development Bank and OECD, *Mutual Legal Assistance, Extradition and Recovery of Proceeds of Corruption in Asia and the Pacific: Frameworks and Practices in 27 Asian and Pacific Jurisdictions – Preliminary Report* (ADB/OECD Anti-Corruption Initiative for Asia and the Pacific, ADB, Manila 2007) https://doi.org/10.1787/9789264041325-en.
- 'Assam Rebel Leader Anup Chetia Extradited to India from Bangladesh' BBC News (11 November 2015)
- 'Bangladesh at the Hub of Three Drug Trafficking Regions' Prothom Alo (7 January 2022)
- Department of Narcotics Control, Government of Bangladesh, Annual Drug Report Bangladesh 2025 (DNC, Dhaka 2025)
- Joutsen M, 'International Cooperation against Transnational Organized Crime: Extradition and Mutual Legal Assistance in Criminal Matters' (UNAFEI, Resource Material Series No 59 (UNAFEI 2001) 364
- Khan MJ and Kaium T, 'The Narcotics Trail: Traffickers Tap 105 Border Points across 18 Districts' The Daily Star (Dhaka, 27 July 2026)
- Ministry of External Affairs, Government of India, 'India-Bangladesh Relations' (MEA, 2024)
- Ministry of External Affairs, Government of India, 'Mutual Legal Assistance in Criminal Matters' (published list of operational MLAT partner States)
- Ministry of External Affairs, Government of India, Statement in Parliament on Ratification of Bilateral Agreements with Bangladesh (September 2011)
- Ministry of Home Affairs, Government of Bangladesh, Implementation Guideline for Mutual Legal Assistance in Criminal Matters
- Ministry of Home Affairs, Government of India, Comprehensive Guidelines on Mutual Legal Assistance in Criminal Matters (2019)
- Mondal MAS, Statement of Bangladesh to the 65th Session of the UN Commission on Narcotic Drugs (UNODC, March 2022)
- 'Two Convicts in Bangabandhu Assassination Case Extradited from India' The Daily Star (Dhaka, 11 April 2020)
- UNODC, Compendium of Bilateral and Regional Instruments for South Asia: International Cooperation in Criminal Matters (Volume I, UNODC Regional Office for South Asia and Terrorism Prevention Branch, New Delhi 2015)
- UNODC, 'Illicit Financial Flows Related to Cross-Border Drug Trafficking Are Comparable to the Value of Exports of Licit Markets, UNODC Report Shows' (UNODC, December 2023)
- UNODC Regional Office for South Asia, 'India-Bangladesh: Trafficking and Abuse of Pharmaceuticals - An Issue of Growing Public Concern' (UNODC, April 2010)

• Vũ HA, 'Practices of Mutual Legal Assistance in Criminal Matters between Vietnam and Southeast Asia Countries' (2023) 18(1) International Journal of Criminal Justice Sciences 64

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