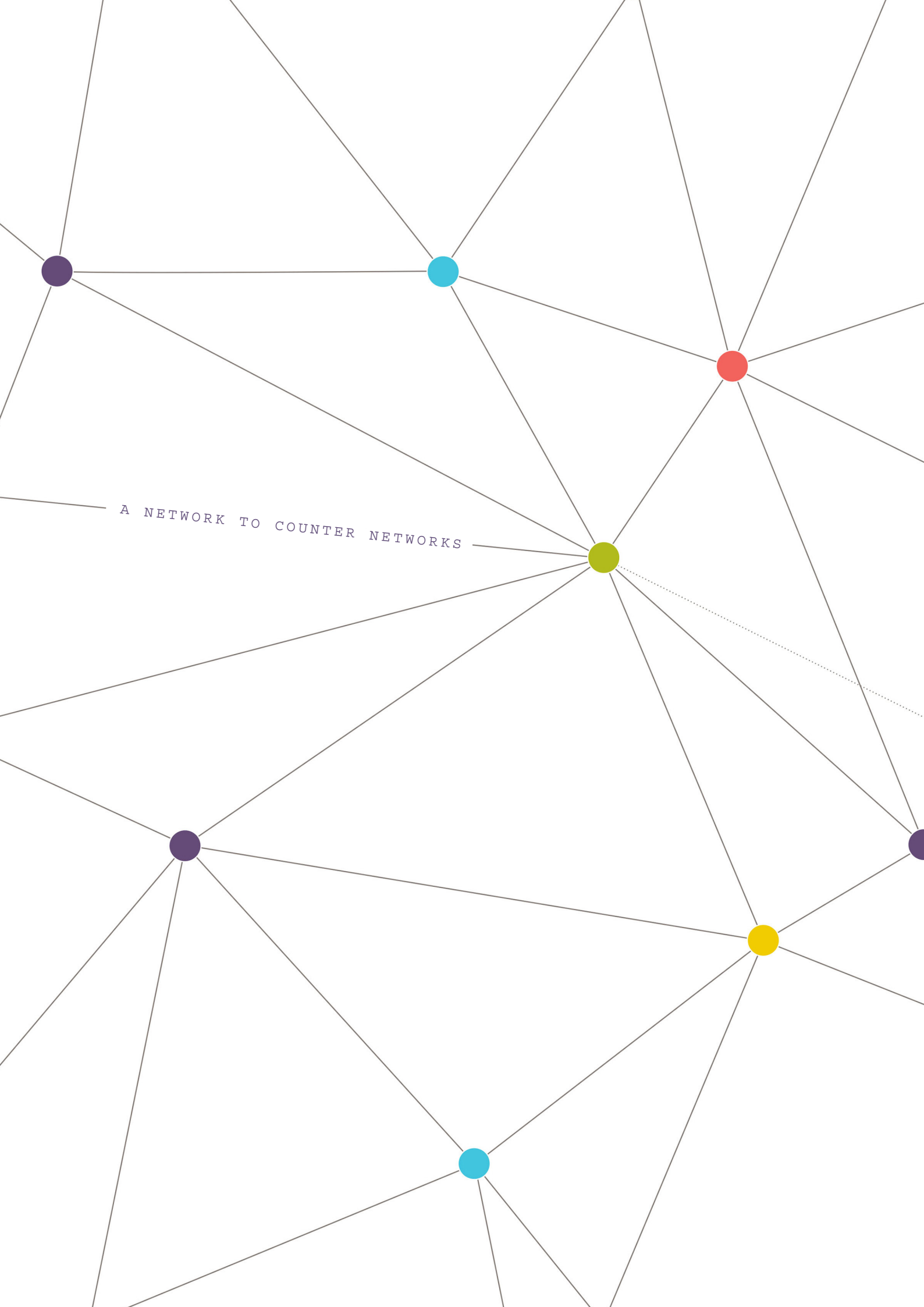


THE GLOBAL INITIATIVE
AGAINST TRANSNATIONAL
ORGANIZED CRIME

Organized Crime in Southern Africa





A NETWORK TO COUNTER NETWORKS



Organized Crime in Southern Africa

Part of the Global Initiative against Transnational Organized Crime
series on Governance, Development and State Fragility



June 2014



Appreciation and Acknowledgements

This initiative was the brainchild of Stephen Ellis of the University of Leiden, Peter Gastrow and Mark Shaw of the Global Initiative against Transnational Organized Crime.

Great thanks go to Armin Osmanovic, Director of the Rosa Luxemburg Stiftung, Southern Africa, for his substantial support to the concept and its development.

The report of the discussions was drafted by Aimee-Noel Mbiyozo and Tuesday Reitano.

The Global Initiative gratefully thanks the range of experts who gave up their time to participate in the seminar and to contribute to the development of this report, and for the financial support of the Government of Norway.

© 2014 Global Initiative against Transnational Organized Crime. All rights reserved.

No part of this publication may be reproduced or transmitted in any form or by any means without permission in writing from the Global Initiative. Please direct inquiries to:

The Global Initiative against Transnational Organized Crime
7bis, Avenue de la Paix
P.O. Box 1295
CH-1211 Geneva 1
Switzerland

www.GloballInitiative.net

This publication can be downloaded at no cost at:

<http://www.globalinitiative.net/knowledge-bank/publications/>

About the Rosa Luxemburg Foundation

The Rosa Luxemburg Stiftung is a German political foundation active in Southern Africa since 2002 and its focus on political education involves creating platforms for civic participation, critical thinking and research and dialogue in the quest for participatory, inclusive, sustainable and peaceful democracy.

Through a number of non-governmental organisations, the Rosa Luxemburg Stiftung supports undertakings that explore and enhance:

- participatory democracy, civil society and political culture
- economic and ecological alternatives and social transformation
- history, identity and politics; and
- international cooperation

For more information please visit us at our website www.rosalux.co.za

About the Global Initiative against Transnational Organized Crime

The Global Initiative (www.globalinitiative.net) is a network of prominent law enforcement, governance and development practitioners who are dedicated to seeking new and innovative strategies and responses to organized crime.

Launched formally in New York in September 2013, the Global Initiative comprises a network of close to 100 independent global and regional experts working on human rights, democracy, governance and development issues where organized crime has become increasingly pertinent.

The Global Initiative, now registered as an international civil society organization, has an office in Geneva, Switzerland, a core Secretariat and a high-level advisory board. Through a range of channels, the Global Initiative seeks to project the expertise of its Network members outwards and to make it available to a broader range of stakeholders.

For more information please visit our website at www.globalinitiative.net or contact the Secretariat at: secretariat@globalinitiative.net.

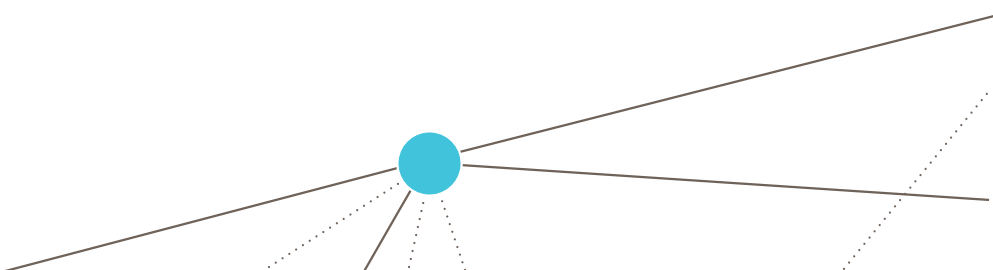


[@GI_TOC](https://twitter.com/GI_TOC)

[@GI_TOC_ESP](https://twitter.com/GI_TOC_ESP)



www.facebook.com/GlobalInitiativeAgainstTransnationalOrganizedCrime



Contents

Introduction.....	1
Evolution and Growth of Organized Crime in Post-Colonial Africa.....	2
Defining Organized Crime in Africa.....	5
The merging of politics with crime.....	7
The convergence between legitimate and illegitimate activities.....	10
The interaction between foreign and domestic criminal groups.....	13
The absence of an appropriate forum to engage and respond.....	16

Introduction

This report is drawn from a seminar in March 2014, hosted by the Global Initiative against Transnational Organized Crime and the Rosa Luxemburg Foundation.

The seminar brought together 20 experts from think tanks, NGOs, independent journalists, academia and the private sector who are working on organized crime in the countries of Southern Africa. Under Chatham House rules, the participants shared their experience and insights through a series of case studies and discussion over two days.

The objective of the meeting was to serve as a platform to better understand and assess the way that organized crime is engaging with governance, democracy, statehood, human security and development. By bringing together policymakers, practitioners and analysts dealing with these challenges, the Global Initiative hopes to develop a working network among relevant actors and share information that, in turn, can translate into more effective strategies to combat transnational organized crime in the region, or potentially more broadly.

The meeting was the first such effort by the Global Initiative and the Rosa Luxemburg Foundation to examine the organized crime challenges of a specific region, and part of a vision to host similar regional meetings across Africa and in other zones of fragility.

While the experiences, trajectories and contexts of each country, and the prevalent organized crime flows and structures with which it is grappling are different, a number of key themes emerged over the course of the meeting.

Evolution of organized crime in post-colonial Africa: Participants noted that while organized crime and corruption have been a feature of statehood in Africa before and since decolonisation, the scope and scale of the problem are now at unprecedented levels. Efforts to promote stability, state consolidation and development all require dealing explicitly with organized crime and its impacts.

Defining organized crime in Africa: Longstanding controversies of the relevance of organized crime to the African context have stymied an effective understanding of the significant growth of the phenomenon on the continent. Analytical tools

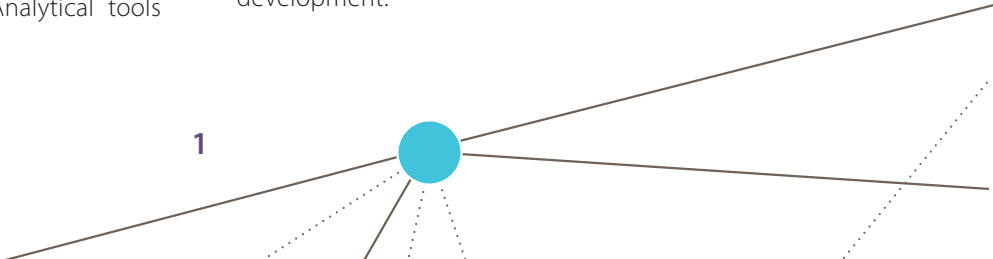
that focus excessively on using seizure data to capture the extent and nature of criminal flows have overlooked the ways in which organized crime impacts on citizens and the state, which is essential in an African context. There remains a dearth of tools and resources available to assess, prioritise and address key issues, and while organized crime continues to evolve, our capacity for analysis, policy-making and program design lag behind.

Convergence between legitimate and illegitimate activities: Globalization and changing political contexts have led to a blurring of lines between legitimate and illegitimate activities, whereby both rely on increasingly sophisticated methods to operate. This has created a challenge for the ways organized crime is identified and understood in the region, which in turn has hampered the response.

The interaction between foreign and domestic criminal groups: A particular feature of Southern Africa is the way in which foreign actors have engaged with domestic criminal groups, both those that have taken privileged positions at the upper echelons of the state, as well as those who have created allegiances with local communities at source. The discussions identified five ways in which foreign criminal networks have impacted local crime groups.

The absence of appropriate forums to engage and respond: The characteristics of organized crime in Southern Africa today require a new set of tools. Globalisation and technological advancement contributed to the proliferation of traditional forms of organized crime whilst also promoting a shift towards a sophistication of financial crimes that now require professional services. This evolution, combined with the increasing complicity of states in criminal activity, creates challenges for the traditional set of responses that are focused on the nation state, national legal frameworks and enforcement tools.

Participants concluded that organized crime is increasingly a challenge that is crossing borders and perpetuating insecurity across the sub-region, and there is an urgent need for a more systematic framework for sub-regional analysis, and for that analysis to be fed into policy making and program development.



Evolution and Growth of Organized Crime in Post-Colonial Africa

While organized crime is not new, the scope, scale and impact of it in recent years are unprecedented. Organized crime has been considered to be one of the greatest threats to global security, stability and development, and is one of the five priorities of the UN Secretary-General's Action Plan.

The growth and evolution of organized crime in Africa is deeply interwoven within the fabric and nature of post-colonial States, being both a response to and a driver of emerging and weak governance frameworks, often authoritarian regimes, transitioning economies and fragile social structures characterised by widespread poverty and income inequality.

Globalisation and technology have brought economic growth, increased stability and development in sub-Saharan Africa, but this has arguably occurred in spite of the state, rather than because of it. In a number of the countries in Southern Africa, criminal groups have taken advantage of weak states and low regulatory capacity to grow their illicit activities.

The manifestations of organised crime in Africa are many and varied, ranging from natural resources crimes, exploiting southern Africa's wealth in minerals, hydrocarbons, flora and fauna; to domestic and transit trades in drugs, arms and people. Southern Africa is both victim to and a proponent of cybercrime and other emerging technology based crimes.

Where analysts once questioned the relevance of organized crime as an issue in Africa, it is now increasingly being perceived as a quintessentially African concern. Mentions and resolutions of organized crime in the UN Security have increased dramatically between 2005 and 2013. A further breakdown reveals that 80% of these mentions and resolutions were focused on Africa, yet there are very few focused on Central America or other regions. This indicates that the UN views organized crime in Africa as an issue of peace, security and statehood.

By contrast, the response to organized crime in Southern Africa, both by the international community and national authorities, has largely been understood through a security lens. Interventions have been disproportionately geared towards building the capacity of law enforcement and criminal justice systems. Responses that build the resilience of communities affected by organized crime, offer development alternatives, or reinforce the capacity of civil society have been negligible. This perspective has tended to overlook, or even reinforce, the socio-political context in which organized crime can thrive.

A number of major shifts in the global economy have increasingly situated African within an international organized crime picture. The following trends are important to understand when articulating organized crime in an African context:

Major shifts in illicit markets: The growth of demand in Asia and the Middle East has impacted both legitimate and illicit trade in Africa: the economic growth in Africa has been largely attributed to commodity driven demand in Asia. The burgeoning market for recreational drugs and wildlife products has caused criminal networks in Africa to grow and become increasingly professional and militarized. At the same time, demand for recreational drugs in the Gulf, coupled with instability across North Africa has pulled trafficking flows eastwards.

A breakdown in historical differentiations between source, transit and consumers states:

A number of features of modern technology have prompted the breakdown of the traditional distinction between source, transit and consumer states. Cybercrime, in particular, is a locationless crime which can be perpetrated in any jurisdiction that has sufficient connectivity, and has placed an unprecedented challenge on national law enforcement, who lack the capacity and skills to respond. The emergence of designer drugs, e.g. amphetamines (which are more sought after in the

emerging markets of the Gulf and Asia than heroin or cocaine) have delinked drug trafficking from specific production zones.

The way in which this distinction has also broken down, however, is a specific feature of organized crime on the African continent, where criminal networks have accumulated multiple illicit flows along established routes. For example – in Southern Africa, routes and relationships used to facilitate the smuggling of weapons are now used to traffic other commodities such as wildlife products.

Intractable connections between crime, governance and democracy: Participants noted that the growth of illicit networks and organized crime in Africa are interwoven into the narrative of independence and statehood on the Continent. Criminal resources were able to insert themselves into key states as sources of ‘legitimate’ (development or cold war) funds dried up. Multi-party democracy and the need to finance electoral processes have presented a particularly vulnerable point for criminal networks to gain influence and legitimacy.

In a number of countries across Sub-Saharan Africa, and also in Southern Africa, states suffer from widespread corruption that penetrates to the highest levels of the state. This has been indicated by

a number of high-profile indictments of figures close to heads of state, or in senior law enforcement or security. This in turn has created an aura of impunity for criminal acts, which is having a corrosive effect on the rule of law more broadly.

It is increasingly evident that organized crime is having a detrimental impact on the legitimacy of states and the capacity for peace-building and central state consolidation. In a number of key contexts, recent events have demonstrated the capacity for illicit resources to empower some groups over others, altering the balance of community relations. For example, some militia groups in southern Libya have become increasingly powerful over other militia, as they use control over the cocaine trade and other illicit resources to secure arms and buy political influence. The widespread presence of militias has created significant challenges to the capacity of the state to provide security and stability, and to exert its influence. A similar phenomenon has been witnessed in countries in the Sahel, most notably Mali. In particular in regions of low state reach – such as in Southern Libya or Northern Mali – powerful protection economies have filled the void left by the state, and entrenched power and criminal rents for certain groups.

Case study: Analyzing organized crime through a protection economy lens

As a whole, the multilateral system in which all actors work to address organized crime has been using outdated tools – in particular an excessive focus on seizures and seizure data to indicate levels and trends in criminal activity. Within a framework of widespread corruption, the use of seizure data has become increasingly misleading, and furthermore fails to capture the nuances about how organized crime and illicit trafficking are interacting with citizens and the state.

As a consequence, limited tools and a lack of a unified response have rendered policy makers unable to effectively bridge the many gaps between law enforcement approaches, and governance and development processes. Given the amount of resources that are dedicated to both in the African context, this exaggerates inefficiencies. New tools for analysis are necessary that better take into account the impacts on a broader range of stakeholders and state-building priorities.

One tool that has been proposed to help better assess and analyze organized crime in Africa is through the protection economy. Protection economies have developed in a range of contexts in Southern Africa. Protection economies both thrive in the absence of governance and security, but also serve to further reduce the capacity of the state in those areas where they are taking hold.

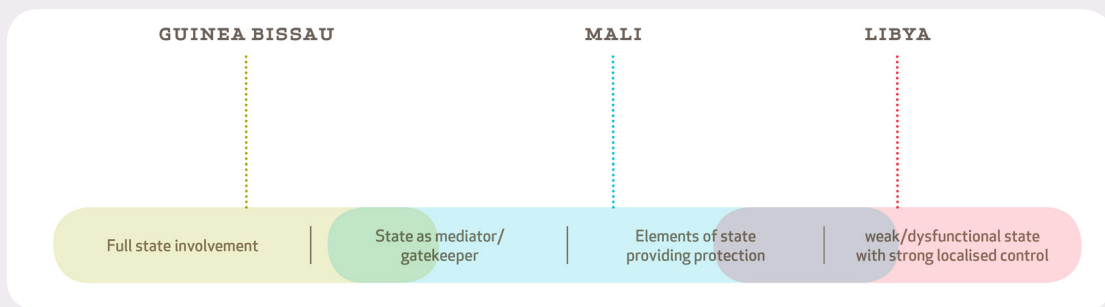


In Africa, illicit economies increasingly cannot be understood without looking at the state, which is a major actor in illicit enterprise. Moreover, in what is an increasingly networked criminal economy, the flows through countries may be transnational, while the control over the transit is often highly localised.

There are arguably three ways in which protection economies operate: violence, corruption and legitimacy. For example, if the state does not have a monopoly on violence (security), then protection is offered by non-state actors who offer security in exchange for resources or other leverage. More sophisticated protection economies develop as criminal groups employ a combination of corruption and perceived legitimacy to facilitate their operations: this can include anything from the bribery of front-line officers to the purchase of high-level state officials, or even electoral office itself. It can similarly include the masking of operations behind legitimate businesses using lawyers and accountants who sit on the cusp of the licit economy.

It is clear that different types of commodities require different forms of protection. For example, human trafficking needs long control whereas drugs do not. However, understanding the local actors and dynamics in each situation is critical to a successful response, as it provides an entry point to analyzing local dynamics, and to understanding which groups may have vested interests in opposing or supporting organized crime.

Protection economies can be witnessed in a range of countries across Africa, and operate along a spectrum depending on state presence and involvement:



Full state involvement: in Guinea Bissau, the state runs the protection economy.

State as a mediator/partial state involvement: in Mali, local power brokers with links to the state run operations.

Weak state/local control: in Libya, there are vast amounts of ungoverned space with high levels of drug trafficking activity. Protection is sold by private brokers, often with ties to certain militia.

While the link between ungoverned spaces and the emergence/size of a protection economy isn't necessarily direct, the presence of a protection economy has been largely overlooked by academics and policy makers and the concept is not well understood. Yet it is clear that protection economies serve as direct competition to the central state, and have a detrimental impact on state formation.

To date, most policy responses to counter organized crime have involved investments into law enforcement capacity building, and the results have been negligible. There is an urgent need to find better ways to alter the incentives around organized crime and protection. Consideration of the protection economy and how it operates is an analytical tool that prompts the consideration of a broader spectrum of issues and actors, and thus arguable can increase the likelihood of improved interventions.

Defining Organized Crime in Africa

There has been longstanding debate as to whether the concept and term “organized crime” has relevance in Africa, given its underpinnings in conflicts and insurgencies, or as a feature of entrenched kleptocratic regimes. It was argued that organized crime in Africa did not follow the characteristics and trajectories of those groups to whom the term is commonly applied – for example to the mafia groups in Italy or the USA. When addressing organized crime, we need to bear in mind that in each part of the world, the state, law and crime have unique histories, and in Africa, states have emerged in conditions vastly different from the USA and Europe, where theories of organized crime were developed. Some analysts have proposed that other definitions are more appropriate in an African context, including “criminal entrepreneur” or “warlord”.

Analysis of modern organized crime globally, however, demonstrates an increasing convergence between criminal networks and their modus operandi, and organized criminal groups in Africa diverge less than in the past. Definitional challenges remain, however, as the term organized crime is used to cover a wide range of criminal practices – from cybercrime to environmental crimes, or trafficking in illicit goods from drugs, arms and people.

Furthermore, however, to understand and effectively respond to organized crime in Africa requires not only agreement around its definition, but also a more nuanced understanding of its impacts. Typically, the main goal of organized crime is the acquisition of money, whether through the provision of illicit goods and services in public demand, or the provision of legal goods and services in an illicit manner. However, participants noted that in an African context, penetration of the state and key institutions appears almost to be a goal equal to securing of criminal profits. Thus analysis needs to account for the impact that organized crime is having on the state in Africa. For example, the provision of legal goods and services in an illicit manner – even by corporate actors who are ‘respectable’ – may in fact

do more damage to the state than more conventional organized crime. When looking at organized crime and state development, we must question whether it is possible to improve human well-being in cases where a “decent state” is missing, and what the tolerance level for corruption and organized crime is in the development of a decent state.

This purpose of debating definitions is not to label Africa as more or less ‘bad’ than elsewhere in the world. The most developed states in the world have roots in corruption or organized crime: participants observed that some of the families considered most prominent today were in fact robber barons that became legitimate and respectable members of society. Participants further emphasised that the characterization of organized crime in Africa should not be to incontrovertibly point fingers at African states. The challenges of organized crime are inter-dependent: no country or region stands alone. Thus, when considering responses, the role of Western countries and companies as exploiters and consumers in Africa must sit in the foreground, and focus needs to remain on who benefits internationally and how tools and instruments can be applied to reduce demand and control the laundering of criminal proceeds internationally.

What is pertinent with respect to organized crime in Africa, is to consider the ways in which organized crime is undermining state capacity and state consolidation, the impact it is having on development and human security, and to identify whether states are able to become stronger in given conditions. This is important for the prioritization of effort and resources. It is also important for ensuring coordinated regional responses that can facilitate the investigation and prosecution of those accused of organized crime.

Participants widely concurred that regardless of how the problem is defined, or the scope of activities included, the tools available to address organized crime are inadequate. This is the case worldwide, but nowhere is this more clearly evident than in Africa.



Case study: Cybercrime: both threat and vulnerability

Cybercrime as a whole blurs the line between legal and illegal activities and is a growing threat across Africa. Cybercrime generally encompasses illegal access, illegal interception, illegal data interference and computer related fraud and forgery. It has grown significantly worldwide and in Africa because it is the easiest medium to get involved in, you can operate anywhere in the world and it is incredibly difficult to prosecute due to jurisdiction and challenges involved in locating the people responsible.

Cybercrime is an overlooked threat in Africa, despite the fact that it not only enables other forms of organized crime, but causes significant damage to African economies and exacerbates the vulnerability of its people. South Africa, for example, has been in the top three countries globally who are victims of cybercrime in certain studies. Cybercrime is estimated to have triggered direct losses of around ZAR 2.65 billion (US\$ 250 million) and to have targeted 80% of South African businesses. The use of pirated software, which is more prevalent in Southern Africa than the rest of the world – in Zimbabwe, and estimated 90% of all software is pirated – has perpetuated the proliferation and spread of a host of malicious viruses, malware and cybercrime bots. Countries in Southern Africa are rising up the global threat rankings.

The internet that ordinary users understand and access only includes 4% of what is actually available. The Deep Web makes up the other 96%. Those that can access it use it for a range of activities including standing up for free speech or human rights to cyber espionage or warfare. The distinction between the two can often become blurred. Furthermore, people often trade in bitcoin, which is not subject to any foreign currency regulations and is impossible to assess the market size.

Despite this, cybercrime remains low on the list of priorities for states in Southern Africa. Financial crimes have long sat secondary to violent crimes and abuses – for example, money laundering crimes were excluded from the South African Truth and Reconciliation Commission – and the crime remains relatively misunderstood. The majority of countries in Southern Africa have insufficient legislation to address acts of cybercrime, and law enforcement and prosecution remain similarly low on capacity and sensitization on the issue. Individual awareness on the need for cybersecurity protocols is similarly low. As a consequence, fighting cybercrime is a privatized endeavor, and poorly understood or regulated by the state.

Yet, cybercrime is a key enabler for the laundering of criminal proceeds and for transferring of significant national assets internationally. Technology is deep in the weft of the fabric of corruption and graft that is undermining governance in Africa. The internet and other technological advances have great potential to increase transparency, oversight and service delivery, but they are not being exploited for their positive impact.

The merging of politics with crime

All of the case studies presented highlighted that the intersection of crime and politics is a major factor in Southern Africa, and Africa as a whole. There has been an increase in the scale of corruption, as well as its strategic importance, and the state is increasingly being used by criminal groups as a means to have an effective monopoly of violence. In some countries in Southern Africa, this has resulted in the erosion of the state as an effective bureaucratic apparatus with a juridical nature.

As noted, the end of the cold war was crucial in facilitating this linkage between crime and politics. Participants attributed this in part to the fact that in the former Soviet bloc organized crime was linked with politics, but also that introduction of multi-party democracies required campaign funding, and in an environment of scarce resources, politicians exchanged illicit funds for political protection or favours.

This has further been reinforced by shifts in the nature of conflict on the continent, as conventional intra-state warfare has been replaced by informal wars and protracted insurgencies. The modern black market arms market in Africa is heavily linked to the influx of weapons during the proxy conflicts during the cold war. Arrangements of this nature brought intelligence agencies close to criminal or unofficial networks in the arms trade and its associated financial circuits, including supplying weapons to non-official groups in a number of regions. This has resulted in the emergence of civilian combatant groups, often funded by illicit trades. For example, during apartheid, the SA Defence Force raised funds through the illegal ivory trade and perhaps even drugs.

In the worst cases, we have seen the emergence of 'failed' states where political entrepreneurs run private militias funded by illicit activity. In less pronounced cases, we see the erosion of a functioning bureaucracy and the politicization of state apparatuses.

A feature of organized crime groups in Africa is that they often expressly target the highest levels of the state in order to facilitate their illicit operations.

Participants highlighted with interest the ways in which criminal groups signal their political patrons, and use their proximity to the state to further consolidate their control over criminal markets and to dominate rival groups.

Weapons transactions are notoriously corrupt because they trade on the secrecy that cloaks the defence business and the very large sums involved. Graft is used in very sophisticated ways. Payoffs are targeted to the top, as well as many mid-level players along the way, in order to ensure that the political costs of disclosure are too high to bear.

A participant presented highlights of an investigation into a suspicious arms deal in South Africa that involved the highest offices in the land – the President and Deputy President. The criminal investigation was subsequently used by the Government to discredit political enemies, thus beginning a process of the politicisation of state security structures, including the Scorpions, National Prosecuting Authority and judiciary, which would see the destruction of the investigative and prosecutorial capacity of the criminal justice and intelligence sector. The destruction of capacity in the criminal justice system has created long-term damage to the capacity of the state, and with that have emerged the more brazen manifestations of organized crime. It was argued that if those in power had had a better conception of the importance of the integrity of the State, then the corruption of the arms deal might have been understood as an attack on the state and investigation might have focused more on the arms companies than the politicians involved.

Other examples of grand and corruption on behalf of the South African government (participants referred to the Chancellor House affair and Sishen Iron Ore Mine in particular) reveal the use of the state, not as a tool of reform and redistribution, which therefore needs to be kept sharp and effective, but instead as the main, most available and symbolic target: a means to self-enrichment and the accumulation of personal political and economic power.



Broad redistribution, through the tax system and the proper funding, staffing and functioning of core departments of state (education, health, local government) has taken a back seat to enrichment through graft and grand corruption. The Black Economic Empowerment (BEE) initiative of the South African Government was used as another example of state abuse has been used to pacify political patronage networks, rather than tackle the broader social and reform programs required for national reconstruction. A special Auditor General's report in 2009, revealed that more than 2000 government officials were doing business directly with the government and had directly or indirectly benefited from government tenders worth more than R600 million. This has politicised and weakened the bureaucracy and its political management, as BEE has been used for the dominant party to politicize their powers to procure resources, regulate the private sector and turn private wealth into political power, thus creating a tight self-perpetuating cycle of corruption and criminal control.

A fair number of African states appear to show similar tendencies, where they portray an outward appearance of upholding the rule of law as required by the international community to protect their sovereignty, but where the actual machinations of an actual state that focuses on the delivery of services to its population are lacking. A functional bureaucracy is a crucial requirement in a successful democracy. The state has crucial importance as a framework for social order, benefit and advancement – in short for the delivery of political, social and economic goods - and therefore as the absolutely fundamental target for the consideration of organized crime and its impact.

Analysts have proposed indicators of a state's inability to deliver political, social and economic goods for its citizens, which include the failing provision of

basic services, the deterioration of infrastructure, widespread corruption, enduring political and/or criminal violence, a decline in gross domestic product and economic opportunity for the broad base of the population, and widespread corruption. A similar set of indicators for a criminalised state include the use of the organs of the state to accumulate wealth, to provide safe havens for organized crime, and facilitating illegal operations. The compromising of criminal justice systems and the presence of clandestine structures of power, and the proximity of criminal groups to state institutions are also indicators of a criminalized state.

The same analysis highlighted that an environment of state collusion with organized crime has implications for community dynamics also, as the breakdown of the rule of law has widespread deleterious effects. Citizens are more likely to themselves operate in the illegal economy as a result of the lack of provision of service delivery by the state, and protection economies develop as criminal groups stand as regulators within the local community. Where criminal groups provide service delivery in the absence of the state, these groups can command legitimacy and loyalty from the local populations.

Discussion among participants concluded that the best method to combat corruption and criminalisation of elements of the state is to raise awareness and public demand for more transparency and better delivery. Many countries sport a free and active press, which facilitates public awareness raising. If public pressure through the media can be leveraged to hold governments to account, the threat of losing political power should increase the priority of delivering tangible services and meeting the needs of communities – and often their requirements are quite modest.

Case Study: Diamonds and the state in Zimbabwe

Zimbabwe has the largest alluvial diamond deposits in the world and the second largest reserves of platinum. Other resources include ferro-chrome, the largest reserve of coal-bed methane in the world, gold and 35 other high-value minerals. The country's natural resources have the capacity to generate hundreds of billions of dollars a year in revenue, yet the country languishes at the bottom 20 countries of the Human Development Index, with the majority of its population living in desperate poverty. Zimbabwe has proven itself an ideal platform for illicit flows from its extractive minerals, and the diamond trade has proven a high profile example of how war economies have transformed into criminal economies.

A number of civil society organizations have investigated and documented in detail the connections between the diamond trade and the political turmoil that has characterized the state since its independence in 1980.

From as early as the independence struggles, illicit mining at an artisanal level was used by local populations as a means of livelihood. Post-independence, this has professionalized, with the military often accused of being in the forefront of illicit mining operations at source; and the Mugabe government using access to the mines as a means of political pacification.

The ruling party, Zanu PF has direct control over mining and has blurred the lines between the state and private sector with many members of parliament and military officials heading state institutions. Despite the fact that parliament and public officials are supposed to have no involvement in the mining sector, the Office of the President has full discretion over distributing 'special' mining grants.

When, in the early 2000s, the West imposed sanctions, Zimbabwe began to receive political support from China and Russia in exchange for economic deals, including mining concessions. Subsequently, India and South Africa have also moved in and increased economic investments in mining. The Marange diamond fields, which were discovered in Eastern Zimbabwe in 2006, are being exploited by concessions sold by the Government to companies from China, South Africa, Russia and Zimbabwe, some of whom have no mining experience.

A number of these companies are registered off-shore, but investigation reveals that they are in partnership and often headed by military personnel or CIO officers. The diamonds are deliberately under-valued and sold illicitly off-shore. Meanwhile, state resources are deployed to protect these opaque operations while the state media sanitizes these operations through positive coverage. Most telling, of all the funds paid by mining development companies paid, none have been officially received by the treasury.

After Mugabe lost his first election in 2008, unrest occurred in the army. Mugabe deployed them to Marange as a means of appeasing them, by giving them access to the mining resources. Atrocities were committed resulting in hundreds of deaths (though few were documented) as the army took control of the diamond ventures. Civil society has campaigned against the atrocities in the diamond fields, that have resulted in the displacement and impoverishment of over 30 000 people. This campaigning has resulted in a 'non-compliance' status applied by the Kimberley Process and the suspension of exports. However, the diamonds continue to be sold and new markets were opened in Dubai, India and China, making operations even more opaque.

For the 2013 election, an estimated \$2 billion (half the annual budget) was used by the party to win the election, and it is broadly suspected to have come through these mining operations. This exorbitant amount has been reported but without detail of how it was spent aside from cars for candidates, lavish parties and campaign material.



The convergence between legitimate and illegitimate activities

In Africa, and the world as a whole, criminal activity has integrated itself into the legitimate economy, and the line between legitimate and illegitimate behaviours is increasingly blurred.

Due to globalization, the legitimate business sector no longer operates within national boundaries, and governments accept and encourage this. Yet, at the same time, legal and regulatory frameworks remain predominantly state based, and international instruments tend to lack the teeth required to provide genuine oversight and monitoring. A feature of organized crime groups is their capacity to systematically exploit weaknesses in state capacity to regulate markets, systems and flows.

The proliferation of free market economies has permitted large international transfers of money that are hard or impossible to regulate. Previously small and isolated criminal markets have become integrated into the legal economy and created a 'grey' zone between legitimate and illegitimate. A recent study by Global Financial Integrity estimated that Africa lost USD 5.86 trillion to illicit outflows between 2001 – 2010 through deliberate mis-invoicing of trade.

Financial globalization has also provided a crucial tool for money laundering and transnational crime. Key measures since the 1970s have included market reforms in China, the abolition of foreign exchange controls in the UK, deregulation and tax cuts in the USA, the formation of a single European market and India's move away from protectionism. In less regulated markets, banks have found new ways of marketing debt - in a semi-legal way with no legal precedent.

A number of international locations provide 'safe havens' for operators in Africa and the world. Not only as a means through which to launder funds, but also as a place in which to base themselves and manage their operations. Certain urban hubs on the continent serve that function - participants referenced Cape Town, Lagos, Dakar and Nairobi, but there are also a number of cities that are extra-

territorial, like London and Paris, which are vitally involved in the African organized crime systems. A successful criminal in developing states is likely to seek a home in a developed country where the security of state organs, durable institutions and banks and insurance companies provide personal security and the promise of increased wealth. Established tax havens obviously also have an appeal in both the legitimate and the illegitimate economy. These locales act as nodes for the global criminal economy.

The discussion noted that sovereignty can be used by businesses to generate cash. For example, in Seychelles \$10 million can buy a diplomatic passport, money-laundering facilities and immunity from prosecution. In this respect, organized crime can be analysed using sovereignty and anti-sovereignty as tools. Legitimate businesses in leading states need the services of anti-sovereign spaces, notably in channelling funds offshore or financing questionable operations. Large criminal organizations thrive in anti-sovereign spaces but need sovereign states in order to launder their money effectively and participate in economic circuits far more lucrative or safe than those existing in his or her homeland.

The discussions highlighted the myriad of ways in which organized crime operations mirror the corporate sector. Good business practices are equally applied to both the trade of illicit and legal goods. As previously mentioned, the lines between drugs (illicit) and cigarettes (legal – but untaxed) are becoming blurred and both sides utilize similar tools and processes, and often include the same actors.

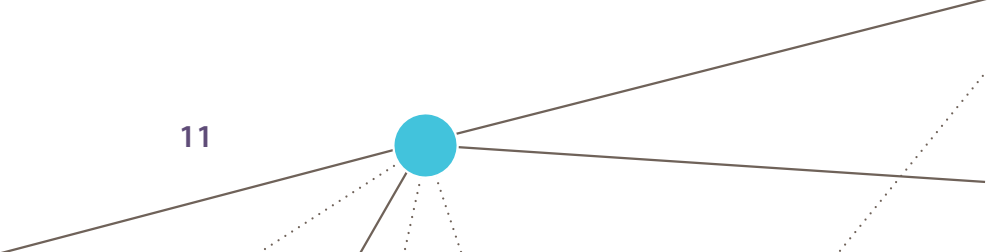
The consequences of this "legalization" of criminal enterprise have led, in some cases, to a reduction in the violent behaviour which has long been considered a hallmark of organized crime. For example, Chinese gangs operating in South Africa's Western Cape prefer not to use violence as it attracts attention to their operations. Increasingly, therefore organized crime in Southern Africa and particularly

in its more sophisticated incarnations, is turning to other levers of protection to ensure a safe space to conduct their illicit trade.

Participants emphasized that with a shift away from violence, as with the earlier discussions on politics and crime, the use of widespread and high-level corruption has become more prominent. Participants highlighted that criminal economies are centred around an increasingly blurry triumvirate of criminal groups, big business and politics, and this is particularly prevalent in failing states and those with significant natural resources.

The blurring of the distinction between criminal and licit further challenges our understanding

and responses to criminal behaviour. Participants observed from their experiences, that degrees of morality are attached to different levels of crime, and there is a resistance to labelling professionals or 'white collar' criminals within the same framework as violent criminals or organised crime gangs. It was further noted that in some cases, the financial crimes committed are not even understood as such in the "moral" lexicon. For example, in South Africa, money laundering crimes were excluded from the Truth and Reconciliation Commission, or other forensic investigations. This highlights how financial crimes are relatively overlooked and misunderstood, which in turns allows those crimes to be perpetuated with broad impunity.



Case Study: the evolution of organized crime in Nigeria

Because of its vast population and economy, Nigeria can have considerable impact on the discourse and dynamics in the Southern Africa region. Independent since 1961, Nigeria has more than 170 million people from more than 600 ethnic groups and has endured several conflicts. It also boasts a dynamic and diverse criminal economy that has its roots in the struggle for political control between ethnic groups following independence. Igbo, Fulani, Yoruba and Hausa clans sought for control of power and resources, often leveraging criminal flows to fund campaigning and corruption.

Interestingly, a British colonial officer in 1944 stated “Crime as a profession has no attraction to Nigerians, except government money, which belongs to nobody.” But in the 1950’s the beginning of scams and corruption began with the transfer of political power, where a ‘winner-takes-all’ mentality characterized the government as a pot of cash to be plundered by the victorious party. This became particularly prevalent as Nigeria became very wealthy following the discovery of oil. Large-scale procurement fraud emerged, of which a well-known example was in the construction of a national stadium which required the importation of 20 million tons of cement (20 years’ worth of allowed imports), but which turned out to be sand. This revealed collusion between internal and external fraudsters, and is widely heralded as the birth of fraud in Nigeria, and the legacy for the ‘something for nothing’ attitude to governance that has become widespread.

The Igbos have lead much of the transnational organized crime out of Nigeria – it has been estimated that they make 75% of the country’s criminals. Culturally, they are very enterprising and astute at business, making up the majority of traders in the country. The process of training and trading is inbuilt into their cultural socialization, including an ‘apprenticeship’ period for youth, and they have leveraged on the large diaspora communities in USA, France and the UK that were established through mass migration during the civil war. A policy of the purposeful expulsion of ‘the 10 percenters’ – elites that were known to receive 10 percent of government contracts in pay outs enhanced this criminal connection.

The structural readjustment programs of the 1980s led to the rise of illegitimate currency controls. The emergence of a dual window, whereby the Naira was traded at vastly different ‘official’ and black market rates resulted in major devaluation, and the value of foreign currency became an obsession. As the Nigerian economy declined in the 1980s, lack of opportunity prompted another mass exodus of highly skilled Nigerians who emigrated seeking work. Drugs and other forms of organized crime flourished as a means of securing foreign currency, but criminal markets evolved on the back of the existing networks and capacity, and Nigerian criminal groups have been quick to learn from criminal actors elsewhere and to innovate on the basis of new technologies.

- Drug trafficking began in the 1980s
- Human trafficking flourished in the 1990s, mostly involving illegitimate marriages in Italy.
- Cybercrime, for which Nigeria has become notorious began in the 1990s.
- Kidnapping for ransom started in the 21st century.

As a consequence of its evolution, Nigerian crime is quite distinct in that it is heavily financially based, and there is far less threat of physical violence than in organized crime’s manifestations in other contexts. It also has a much broader foundation, and there are rarely kingpins associated with Nigerian crime as they may be elsewhere. This indicates that it may be more widespread and less hierarchical or ‘grand’ as in other examples.

Somehow, the countries robust economy and educated population, both of which were in place before organized crime flourished, has helped minimize the impact of the state’s failings. Similarly, the sheer size of the population and the diversity prevents the impact of any particular government or actor holding authoritarian power. As such, while Nigeria suffers widespread corruption, it has avoided the individually dominated model that other countries in the region have experienced.

The interaction between foreign and domestic criminal groups

A consistent theme that ran through the two days of discussions was the interplay between foreign actors and domestic criminal groups. While much of the analysis and the presentations focused on post-colonial period, it should be recognised that organized crime and criminal flows in some form have been present in Southern Africa since colonial times. In that era, criminal groups were overwhelmingly domestic and unsophisticated and not seen as a serious threat. Criminal markets were relatively small and underdeveloped and the major plundering of natural resources that took place (e.g. precious metals and diamonds) was to the colonial capitals that often and considered legal trade.

This changed during the run-up to and after independence. Borders became more porous, cross-border smuggling of minerals and other contraband increased significantly and criminal markets in the region expanded. For the next 40 years (1960 to 2000), organized crime mushroomed throughout Southern Africa. Formerly relatively insignificant domestic crime networks expanded organized crime in the region significantly and international criminal networks from all corners of the world aggressively entered the region, particularly South Africa.

Nonetheless and interestingly, domestic criminal groups - not foreign networks - continued to constitute the most serious threat until the 21st century. Research by the Institute for Security Studies showed the greatest threat for Police Commissioners in Southern Africa in 2000 was theft and smuggling of motor vehicles, which was the domain of domestic criminal groups in Southern Africa. Response to a police questionnaire in 1993-1995 in South Africa was that there were 1000 gangs, demonstrating a low level of understanding of this nature of crime and criminal networks.

However, in the next decade, things changed dramatically, and by 2010 the same South African study showed drug-related offences had taken precedent as the most serious organized crime

threat. International criminal networks involved in drug trafficking – namely Nigerian, Chinese, Pakistani, Italian – were starting to eclipse domestic groups. Earlier discussions had further highlighted how foreign companies were targeting and penetrating governments in the period of state consolidation, in order to leverage political power and the rights of sovereign states to facilitate and protect their illicit activities.

The participants observed the phenomena of criminal accumulation, as other forms of crime have flourished on the basis of the networks established around trafficking in drugs and minerals. For example, the telecom industry (stolen devices and services) is also growing and directly influenced by international networks from Pakistan and China.

In seeking to understand the impact that foreign criminal networks are having on the domestic and regional criminal economies of Southern Africa, five core phenomena were identified.

1. They act like the flip side of multinational corporations:

As the previous section identified, criminal groups act like multi-national corporations, in that they assess the market and environment before establishing a foothold. Once they have done so, however, they typically outperform and contain local competitors, and where possible use legitimate business in secondary, high-risk roles to mask or front their criminal activity.

A number of examples were presented to demonstrate this phenomenon. The abalone trade in South Africa evolved from a local livelihood where communities were harvesting at minimal rates. Chinese gangs moved in to control the market, and involved local police and gangs to increase yields to traffic to international markets. Rhino horn poaching, which similarly began as a small-scale enterprise has now been taken over by South East Asian groups and become highly militarised, with connections



to internationally recognised criminal kingpins. The illicit trades in cocaine, heroin and amphetamines (mandrax) are also dominated by foreign criminal groups.

2. They speed up the learning curve and sophistication of local criminal networks

The short examples above also demonstrate the ways in which criminal groups lead local networks through an apprenticeship towards a regional and international role. Lessons learned by local criminal networks, and connections made through facilitating foreign lead trafficking, have led to a greater sophistication in the way the domestic groups operate. For example, collaboration with Nigerian networks in purchasing drugs reportedly contributed to South African Cape Flats gangs learning to buy and trade in bulk.

3. They set the pace in corrupting political elites and in penetrating government structures

Because of their international experience and access to larger funds, international criminal groups have been more successful in penetrating and corrupting government structures. What is also pertinent is that they tend to target higher levels of state structures than local South African gangs, and thus they play a more damaging role to state institutions.

4. They facilitate greater access to international criminal markets and accelerate the integration of Southern African criminal markets with global criminal markets

The growth of foreign criminal networks arguably created an illicit common market in Southern Africa at a time when governments had been talking

about creating a formal common market for years without progress. Foreign criminal groups have also played the role of making Southern African countries increasingly active transit zones for drug trafficking (namely Mozambique, Swaziland, Tanzania, Angola) and for endangered species e.g. ivory. This has had detrimental impacts on the health and well-being of communities in a number of ways: drug use has increased, small arms have proliferated, conflict has been protracted in some countries, and the environment and key eco-systems have been threatened by trafficking in environmental products.

5. They benefit the poor in a number of areas

In many regions illicit trade has become the dominant livelihood strategy for vulnerable communities. Cannabis cultivation has played this role in Lesotho, Swaziland and Tanzania, with small-scale farmers able to earn far more from the illicit crop than they would have done from agricultural goods or subsistence farming. Communities bordering the Kruger National Park have become similarly reliant on and protective of the illicit poaching in ivory perpetuated by criminal networks, as this has proved an un-equalled stream of resources in an otherwise impoverished region. Beyond these collateral economic benefits, however, foreign organized crime groups have done little in terms of investment in the communities.

Essentially, participants concluded that foreign organised criminal groups have served as a steroid to domestic criminal goods, exponentially increasing their activities, and exacerbating the negative impacts of organised crime on governance, democracy and state fragility.

Case Study: Foreign Criminal Investors in the DRC

The DRC provides an example of a state that is directly involved in grand corruption (as distinct from the widespread corruption that is also prevalent), where state collapse and the absence of a functioning rule of law framework have allowed opportunities for domestic actors to partner with international actors in the 'legal' sale and exploitation of mining resources.

The case of the DRC clearly illustrates how criminal economies can shift from opportunistic and unsophisticated to highly sophisticated, entrenched operations that employ "white collar" professionals and government officials to facilitate their operations. Similarly, off-shore centers designed to draw legitimate investment now collude to channel and launder illicit funds.

In the DRC, this process was enabled by the effective collapse of the state, the breakdown (or wilful destruction) of other forms of productive enterprise, and the increasing reliance on revenue from the mining sector as a source of funding for day to day activities. The use of mining concessions as collateral for foreign investment has long roots. From the independence struggles, mineral exploitation rights were traded for military support – a practice that continued throughout the Cold War, and intensified in the post-Cold War period as proxy funding dried up and the government sought new sources of funding to finance election campaigning and patronage networks. The mining sector remains the primary means for the Government to source global liquidity, and the absence of capacity of state institutions or regulatory frameworks allows these to be distributed with minimal oversight or control.

The chaos and fragility in the immediate post-war period in the DRC allowed a number of foreign actors to gain a foothold at the highest levels of the state. For example, one Israeli individual is known to have a privileged position close to President Kabila, which he secured through filling the vacuum of war-time funding and bank credit, by offering to facilitate relationships with mineral companies and access to capital, based largely in City of London, Gibraltar and other tax havens. He is reported to offer access to instant liquidity (he is alleged to fly around in a private airplane with up to \$US 20 million in cash) ready to bail out senior politicians and the President himself in exchange for favours. In this way he has become the key gatekeeper to establishing relationships for companies or people with mining interests with the government in the DRC.

This represents a change in methodology that, in turn, enables the current modus operandi for grand corruption. Mineral companies with highly sophisticated international networks, including lawyers, accountants and very complicated deal structures use middlemen to trade capital for mining concessions. Old mining maps dating back to colonial times have been known to be used to leverage companies claiming actual operations which, realistically, have little to no prospect of ever operating. In some cases the creation of shell companies has allowed these fictitious assets to be traded on junior stock exchanges, and a complete absence of financial regulations means that one can release statements without an actual company or commodity and inflate the price in London or elsewhere. A notorious example is of a DRC mining operation funded from Sweden that was in fact the profits from a laundered cocaine deal!

Even where resources are genuine, grand corruption facilitates criminal representation of the quantity and quality of output. A number of internationally known companies have been implicated at the heart of these transactions in the DRC. The favorable terms negotiated on the concessions that they own and manage are said to be worth US \$1.4 billion. Illicit gold sales out of the DRC are estimated to be worth 10 times the legal sales. These are funds lost to the government for sustainable and legitimate revenue generation that could be used to stimulate the national economy and promote development. Instead, private companies and corrupt individuals are profiting from state failure.



The absence of an appropriate forum to engage and respond

The goal of the workshop was to explore and analyze organized crime in Southern Africa, to better understand the phenomena that need to be addressed.

The participants concluded that the features of modern organized crime in Southern Africa pose a challenge that the region is not well placed to respond to. There has been insufficient analysis of the nature of organized crime and its impacts driven by African countries themselves, and that the debate around organized crime and responding to it effectively remains driven very much by the West, where it is perceived as a security issue.

What is clear from the discussions generated in the workshop is that organized crime in Southern Africa is evolving from a crime issue into a governance issue, and that this may require a different toolbox from the one currently being employed. With the tight triumvirate of political elite, business elite and criminal actors (including foreign actors) becoming a dominant feature of organized crime, there is a clear challenge in mobilizing political will to establish the state institutions and regulatory frameworks that would need be required to respond effectively.

They observed that the types of crimes being perpetuated in Southern Africa are broadly twofold: natural resources crimes based in the mining sector and ivory poaching and other wildlife crimes; or the apparently “victimless” financial and internet-based cyber crimes. While often related, or even perpetuated by the same groups, using networks and methodologies to mask criminal activities, they require different responses. On the one hand there is the need to address the legitimacy criminal groups and activities may have at the community level, and possible dependence that communities may have on criminal flows for livelihoods. On the other hand, there is need to come to terms with the perceived reluctance to identify and oppose the white collar criminal, and those crimes marked by a corporate front.

In this regard, the discussions broadly observed that organized crime in Southern Africa is less characterised by violence and conflict than it may have been in the past, as different levers of protection are employed by criminal groups. The result is a greater emphasis on corruption and concealment of activities than violent protection and extortion.

Addressing corruption as the facilitator of all forms of organized crime must therefore be an urgent priority, and participants emphasised the importance of protecting civil society dialogues alongside state processes. Journalists, NGOs, and research institutions are working actively to identify and investigate criminal behaviour, raise awareness and mobilise political will against criminality, and are often supporting sources of resilience to the negative impacts of crime at the community level. These functions require support and protection, as they can often put individuals involved at risk of violence or reprisals.

Given these characteristics, what is missing from the spectrum of responses is a multi-stakeholder forum in which these issues can be openly discussed, analysed and their implications understood. Such a forum would need to draw on representatives from civil society and the private sector, as well as law enforcement and national policy makers, where the debate typically resides.

It was observed that the benefits of this workshop had been that it brought together actors from different countries in the region, which allowed experience sharing which was not possible in purely national fora, and it also emphasised the need to address the cross-border dimensions of organized crime.

What is required, however, is to find ways in which the discussions and conclusions could be fed into policy development at the national and sub-regional level, and to give the region a voice in international dialogues on organized crime.

Overall, participants strongly welcomed this joint initiative by the Global Initiative against Transnational Organized Crime and the Rosa Luxemburg Foundation, and proposed the following next steps:

Replicating the workshop in other regions:

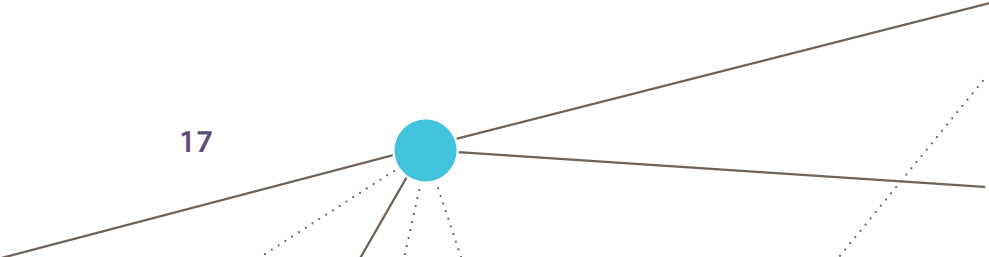
Conducting the same type of discussion in other regions of Africa to benefit from other African experiences, help shape our understanding of the issues on the continent. It is noted that the issues vary regionally and by country, but the end goal is to have a comprehensive understanding and response that is responsive to these differences.

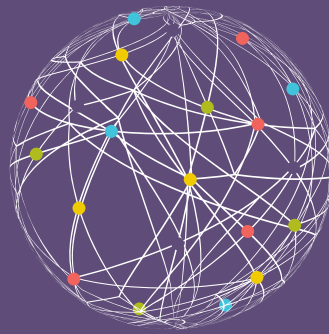
Expanding the stakeholders:

Participants highlighted the immense utility of this forum for sharing information and building important relationships between civil society actors. It was noted however, that over the long term, bridges will need to be built with other stakeholders, including with law enforcement and development actors, in order to have influence at the policy level. They encouraged the Global Initiative and the Rosa Luxemburg Foundation to explore options in this regard.

Continuance and growth of this network:

Too few people are working specifically on the issue of organized crime, and have a tendency to do so in a vacuum. Participants welcomed the opportunity to be included in the larger network communication and activities undertaken by the Global Initiative against Organized Crime, and looked forward to continuing the discussion.





THE GLOBAL INITIATIVE
AGAINST TRANSNATIONAL
ORGANIZED CRIME

www.globalinitiative.net

