ENACT: Enhancing Africa's response to transnational organised crime

Regional Organised Crime Observatories: Foundation Workshop

3–6 July 2017, Cape Town, South Africa

CONFERENCE ANALYSIS

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INTRODUCTION

From 3–6 July 2017 the EU-funded ENACT project held a foundational experts meeting entitled the *Regional Organised Crime Observatories: Foundation Workshop* in Cape Town, South Africa.

The workshop brought together 65 multi-disciplinary experts in the areas of metrics, crime observation and illicit markets within the African context, to exchange experiences.

The meeting allowed the ENACT consortium to draw from the attendees' expertise to develop the implementation of its planned Regional organised crime observatories (ROCOs) and the Transnational Organised Crime Index, subsequently renamed the Vulnerability Assessment Tool (VAT).

A Conference Report ('the Report') summarises the discussions that took place at the workshop, and provides a comprehensive précis of those conversations.

The analysis contained below is intended to complement the Report by raising a series of questions that are likely to arise as ENACT initiates its programmatic activities. In this way, the analysis aims to anticipate a range of issues that ENACT's stakeholders will likely raise over the next 18 months and which the programme should address.

This analysis is divided into five parts:

(1) Measuring transnational organised crime: state actors, politics and transnational organised crime
(2) Risk and drivers of transnational organised crime
(3) The Vulnerability Assessment Tool
(4) Regional Organised Crime Observatories
(5) Summary of the findings

1. MEASURING TRANSNATIONAL ORGANISED CRIME: STATE ACTORS, POLITICS, AND ORGANISED CRIME

The Report summarises the discussions of the conference's plenary and breakout sessions, the majority of which focused primarily on individual commodities or industries (e.g. drugs, weapons, human trafficking, etc.), their markets and the transnational organised crime (TOC) associated with them.

However, in these discussions the relationship between criminal entrepreneurs and state actors was not engaged with or unpacked extensively. These two perspectives on TOC – one focusing on commodities and markets, and the other on the participation of state actors – are not mutually exclusive; rather, they are complementary.

To ensure that ENACT is able to respond appropriately to questions that will inevitably arise, it important to supplement the discussion of commodities and the industries in which organised crime occurs with a discussion on the relationship between state actors and criminal entrepreneurs – so as to come to terms with the politics, structure and operations of organised criminal networks.

An analytical consensus has emerged on the characteristics of organised crime in developing environments, including fragile, conflict-affected and post-conflict countries. What had historically been known as an adversarial relationship between organised

crime and *the state* is now better understood as a spectrum along which the engaged partners are married with another – criminal entrepreneurs with state actors and vice versa.[1]

The balance of power between – and among – the married partners varies depending on the political and economic context(s), the type of commodity being purveyed and the relevant industry.[2] For instance, in the case of drug trafficking, usually (although not always, Burkina Faso proving an exception) criminal entrepreneurs are the dominant partner, while state actors provide a range of supporting services. This seems, generally, to hold true for organised crime dealing with counterfeit goods, wildlife exploitation, trafficking in persons and most commodities that are transported across state borders.[3]

In organised crimes involving natural resources, it may vary as to which of the two partners is the dominant actor in the relationship. For instance, state actors are often the dominant partner in organised crime in the oil industry (e.g. in Nigeria, Libya, Angola and Mozambique), while in the fishing industry or the mining of minerals, there may be more equality between actors. In other organised crimes, however, such as real estate or property development and public procurement, state actors invariably hold the dominant position.

Because of the criminal partnership, discerning when an individual or group of state actors *acts* politically or criminally is ambiguous. The same applies to the criminal entrepreneur. This is not to suggest that the illegal activity itself is innately difficult to determine. Rather, when a political actor breaks a law, this may be part of his or her wider political strategy and be a criminal act. The distinction between the two is therefore fluid and amorphous.[4] Similarly, a criminal entrepreneur may adopt distinct political positions, advocate for policy choices, fund campaigns and provide public goods and services, while at the same time furthering his or her criminal objectives.

The marriage of state actors and criminal entrepreneurs and the concomitant blurring of the political and the criminal, is the first key finding of the consensus. The second is the use of a business model, around which most of the conference sessions revolved.[5] Combining the two approaches leads to the recognition of the centrality of organised criminal networks in the study of organised crime.

The identification of networks offers a number of important contributions. Within a *network* model lies the implicit notion of a *division of labour*, triggering the analysis of who provides which specialisation, when and where. For each specialised link in the network there is an implied *value added*.[6]

Analysing who contributes what value added can also provide an appreciation of the different entry points to tackle that network. In short, the higher the value of an actor in the production chain, the more likely it is that that actor's skills are rare. This increases the probability that altering his or her participation would be disruptive.[7]

2. RISK AND DRIVERS OF TRANSNATIONAL ORGANISED CRIME

The Report highlights three drivers of TOC in Africa:

    (1)   The oversupply of illicit products, particularly drugs
    (2)   The growing scarcity of other illicit products, especially environmental products
    (3)   Consumer aspirations resulting in burgeoning counterfeit good markets and the illicit movement of people

It is important that these three drivers have been identified. There are, however, various other drivers of TOC that may be equally pertinent. Each increases a country's risk or vulnerability to TOC and, therefore, may have to be addressed in ENACT's formulation of its VAT, especially in the *risk* dimension.

It should be noted that, in Africa as well as elsewhere, *conflict* is a major driver in the proliferation and virulence of organised criminal networks. This analysis does not discuss that driver, as conflict per se lies outside the boundaries of ENACT.

Similarly, the literature on the natural resource curse is sufficiently well known as a driver of TOC that this analysis does not broach the topic. This is not to suggest that ENACT should slight either subject, but there is little need for this analysis to delve further into them at this time.

Finally, it may be important to correlate the drivers of TOC with other types of criminal activity. This may be of special import with regard to gang violence, militias and their various incarnations. The topic, however, was not raised at the conference and therefore is only mentioned here as a potentially productive line of future research.

2.1   Correlations between risk factors

Credible empirical analysis on organised crime risk factors exists[8] and the British government recently published an analysis of the current state-of-play in organised crime scholarship.[9] That research found that there are a range of drivers of organised crime that can be divided into two sets – macro and micro.

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At the macro level, the main drivers are: one-party[10] or rentier states,[11] the subsequent collapse of one-party or rentier states,[12] large governmental subsidies to private economic interests,[13] geographic areas that straddle trade routes (usually historic, but with globalisation not necessarily so)[14] and large informal or illicit economies.

At the micro level, an annex from the HMG report outlined the basic contours of what is empirically known to be drivers of change and risk factors for the proliferation of and harm associated with TOC, which is attached as Annex A. The utility of these causal relationships is that each identifies concrete and practical structural initiatives – potential changes in the rules of the game – that applied research and programming can support. Over the long term, these could weaken the foundations upon which organised criminal networks thrive.

2.2   Aid curse, the state and TOC

The natural resource curse is a well-known driver of organised crime. There is also a second *curse* – characterised as the *aid curse* – which refers to the dependence of the national budgets of developing countries on international support and monies.

According to the 2017 World Development Report, 'currently, aid represents more than 10 percent of GDP for half of all low-income countries and over 30 percent of total revenues for 26 countries'.[15] Empirical evidence suggests that the effect of this level of aid is as harmful, if not more egregious, than the consequences that have ensued from the resource one.

The issue is not merely, or even primarily, financial and economic. Rather, it is first and foremost about the institutions and agencies of the state and their ability to govern effectively and accountably, for 'the more aid a country receive[s] the worse its political institutions get' and the weaker their 'institutional development'.[16]

The logic behind the aid curse is analogous to that behind the resource one. Mirroring the effects of the resource curse, dependence on international aid negatively affects the relationship between state actors and the citizenry they are meant to serve. As with the surge of proceeds from natural resources, the influx of foreign money untethers state actors from governance processes and makes them 'less accountable … and under less pressure to maintain popular legitimacy. They are therefore less likely to have the incentives to cultivate and invest in effective institutions.'[17] In addition, part of the issue may be that foreign aid is volatile, particularly given that aid commitments frequently outrun actual aid disbursements.[18]

Both phenomena hamper planning processes in recipient countries, which, in turn, undermine fiscal discipline. With spending increasing,[19] budgets become institutional facades,[20] which, echoing the resource curse spiral, further weakens governance structures and systems.

Equally if not more problematically, foreign aid can readily be understood as an unearned rent to be utilised by state actors. The accrual of these rents stimulates perverse incentives[21] and is directly correlated with increased levels of corruption among state actors.[22]

Whereas the resource curse originates in extractive industries, corruption associated with public spending and the subsequent growth of organised criminal networks originates in the provision of public services – public procurement with regard to housing, health, etc., as well as the building of infrastructure[23] – and spreads outwards from there.[24]

Therefore, despite the real progress made in conceptualising the relationships between aid, institutions and governance, 'the evidence of a contribution of aid through institutions to growth seems particularly weak'.[25] What the evidence does unequivocally indicate is that the relationship between good governance and aid is problematic, as 'there is a robust statistical relationship between high aid levels in Africa and deteriorations in governance'.[26] Aid, therefore, 'needs to be delivered more selectively and in ways that reinforce a virtuous cycle of development rather than contributing to a vicious cycle of poor governance and economic decline';[27] cycles that have enabled state actors to embed themselves in and direct organised criminal networks.[28]

The challenge for ENACT therefore is to think through appropriate indicators correlating aid input, governance efficacy and linkages, if any, to the risk or presence of organised crime networks.

2.3   Urbanisation, informality and TOC

Another driver of the growth of organised criminal networks is the rapid and largely uncontrolled urbanisation that has engulfed the developing world. Over the past 50 years the rate at which urbanisation has proceeded is mind-boggling. In 1950, the rural population accounted for upwards of two-thirds of the world's population. By 2025, it is estimated that two-thirds will be urbanised and 90% of that demographic will be living in the cities of developing countries.[29] The challenges associated with the burgeoning of megacities such as Lagos, Dhaka, Manila and São Paulo are enormous, and the 10 fastest growing cities in the world are all in Africa.

In country after country, urbanisation has proceeded in an uncontrollable and virtually uncontrollable way. While it varies from country to country, huge percentages of the urban explosion occur in areas that lack provision of public services by municipal, provincial and state institutions and agencies.[30] These services, then, are provided by informal means.

More problematically, it is not just the lack and informality of public services that characterise these urban areas, but also the more generalised informality of state legal structures, systems, and the law.[31] It is presumed that over 70% of [urban] growth currently happens outside the formal planning process and that 30% of urban populations in developing countries live in slums or informal settlements, where vacant state-owned or private land is occupied illegally and used for illegal slum housing.[32]

Just as the informal economy is a petri dish for the flourishing of organised criminal networks, informal geographic areas have proved to be more than fertile grounds in which organised criminal networks can breed and have grown.[33] In Mumbai, one of the entry points for the networks has been and remains the real estate and property development market. They have been able to leverage their 'access to large sums of capital, their embeddedness in local communities, and their formal and informal linkages to political party organizations'.[34]

As research makes evident, state actors are not auxiliary players in the game or 'corrupted' individuals. Rather, state actors are married into these networks, for, as the stakes of urban development in Mumbai have increased, not only has the state allowed organised crime groups to acquire and develop prime properties, but development authorities have increasingly employed both major organised crime groups and more local outfits to help clear land and promote redevelopment schemes.[35]

Mumbai is not an isolated instance,[36] but rather a basic rule that operates in many of the world's megacities. It is a consistent pattern of the current form of urbanisation where many residents depend upon informal relationships to obtain public services and access public officials. In Dhaka, for example, *mastaans*, the local face of the networks, control the informal and slum settlements and charge excessive rents for housing and basic services, but without the semblance of security for those who live in the slums.[37] As a result, these 'intermediary institutions or platforms between low-income residents and government agencies are invariably co-opted by local power brokers'.[38]

In Mozambique and especially Maputo, the story is the same. It is estimated that by 2025 the country will have moved from the fourth least to the fourth most urbanised state in Southern Africa,[39] with many of the new citizens of Maputo living and working in the informal sector. Maputo is reputed to have the second highest level of corruption in the sub-region, exceeded only by Lusaka.[40]

In urban informality, 'corruption' is only a symptom and tell-tale sign of the existence and strength of organised criminal networks. Unsurprisingly, therefore, state actors have exhibited 'little political commitment to alter the situation, given the known links between organized crime and government officials'.[41]

2.4   Resilience

The Report mentions the concept of resilience a number of times in reference to measuring the risk of TOC. Originally the preserve of engineering studies and environmental analyses, resilience has been a key factor in developing understanding of risk, particularly when viewed as a management tool to assess threats to which different types of systems might be susceptible. In that vein, resilience is neither an outcome nor an end state to which a system strives or in which it culminates.

The challenge is coming to terms with what resilience means within development and, for ENACT, for vulnerability to TOC.

Over the past decade or more, the concept of resilience has entered mainstream development thinking. Within this thinking, however, there is no agreed-upon definition of the term. At one and the same time, resilience 'is regarded as a quality to be "strengthened", "built" and "developed", a tool to reduce the exposure of people and systems to shocks and stresses, and a foundation for economic growth and prosperity'.[42] The concept can be conceived as a set of characteristics, capacities, and a process, as well as an input and an outcome. In short, resilience has come to mean almost anything to anyone and, as a result, has lost much of its rationale.[43]

If ENACT intends to use the term in its analysis, it would be appropriate for the programme to provide an operational definition and list indicators for its measurement.

3. THE VULNERABILITY ASSESSMENT TOOL

A central component of ENACT's activities is the development of a multi-dimensional Index, or as it is has been renamed, Vulnerability Assessment Tool (VAT). As currently envisaged, the VAT is to be composed of three composite sub-indices – risk to organised crime, presence of organised crime, and response; that is, state capacity and political will to respond.

Paraphrasing the Report, ENACT is designed to collect and aggregate data related to specific illicit markets that can feed into the VAT, and deliver research papers and policy briefs providing policymakers with the information upon which to formulate strategies to reduce the proliferation and impact of organised crime. The VAT, according to the Report, is also meant to raise awareness and promote cooperation across the African continent by catalysing attention to the growing threat presented by TOC.

In order to achieve these three objectives and address a range of issues likely to arise, it may prove useful for ENACT to consider the lessons learned from other indices that are comparable to the one that the programme intends to design. To assist the VAT to achieve the greatest possible rigour and so maximise its utility across its intended objectives, the analysis below outlines learning from the structure(s), format(s), and methodologies of other similar indices.

Among the many questions to be addressed as the VAT is designed is the composition and type of indicators that will be used. The Report clearly and correctly notes that the preponderance of the current knowledge about organised crime relies on qualitative research. The Report also indicates that this imbalance is problematic and that quantitative/outcome data is crucial for the development of the VAT.

There are numerous published indices on good governance, justice and security development, and economic development. The two that most closely resemble what ENACT's VAT seeks to achieve are Transparency International's Corruption Perceptions Index (CPI) and the World Bank's Worldwide Governance Indicators (WGI).

It should be noted that the CPI incorporates and integrates a vast amount of survey data from organisations, such as the African Development Bank, Bertelsmann Foundation Sustainable Governance Indicators and Transformation Index, The Economist Intelligence Unit, World Justice Project Rule of Law Index, and World Bank Country Policy and Institutional Assessment, whose indicators measure a range of governance, economic, development and political functions and activities.[44]

Before delving into the challenges and lessons learned from the CPI and WGI, it is important to clarify a conceptual issue regarding the relationship between corruption and organised crime. As is apparent, the two indices explicitly focus on corruption, while the VAT is to be designed around TOC. It could be argued, therefore, that these indices have little in common, given their disparate disciplines. To make the argument requires careful discrimination and thoughtful differentiation between corruption and organised crime in the developing world. There is, however, little analytic distinction between the concepts, no known empirical method of separating them, and no widely accepted understandings of the terms upon which such a divorce could be credibly grounded.

An alternative would be to differentiate 'bribery' from 'corruption' and, concomitantly, TOC. Distinguishing between bribery and corruption/organised crime could rest upon the actions and behaviours of the state actor initiating the criminal activity (active vs. passive bribery) and the severity of that criminal activity (the harm inflicted). For instance, Transparency International identifies 'active bribery' as a type of corruption; the OECD's understanding of corruption encompasses both;[45] and the Council of Europe vacillates. The Criminal Law Convention on Corruption (a) defines 'active bribery' (art. 2) as sharply distinguished from passive bribery (art. 3).[46] The Civil Law Convention on Corruption, on the other hand, incorporates 'active' and 'passive' bribery, stating that corruption is 'requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, the undue advantage or the prospect thereof'.[47] As a result, no consistent or credible analytic distinction can be made. Furthermore, in the literature there is little discussion discriminating between bribery and corruption/organised crime according to the severity of the harm inflicted by the alleged criminal activity.[48]

A recent case study of Honduras argues that the two concepts – corruption and organised crime – are inherently linked, if not inexorably entwined with one another. The Honduran analysis supports the supposition that, in most instances, there is a marriage or partnership between state actors and criminal entrepreneurs that creates organised criminal networks, and that the relationship between the married partners – whoever may be the dominant player in their association – varies according to the commodity being purveyed by the network. In this analysis, the primary challenge is to analyse how and in what ways politics, business, and criminal activity have been woven together into a network or series of commodity-specific networks. More specifically, with regard to state actors and institutions, the corruption/organised crime challenge is to understand which and how 'elements of state function have been tooled to serve the purpose of wealth-maximization, while government agencies that represent potential obstacles to it have been expressly disabled'.[49]

Honduras is not the exception, but rather a generalised rule. It applies to countries as disparate as Brazil, Papua New Guinea, Kenya, South Africa and Guatemala. It is estimated that there are

some five dozen countries worldwide, [where] corruption can no longer be understood as merely the iniquitous doings of individuals. Rather, it is the operating system of sophisticated networks that cross sectoral and national boundaries in their drive to maximize returns for their members… (Chayes, 2017, p. 1). [These] sophisticated networks … link together public and private sectors and out-and-out criminals … whose main objective is maximizing returns for network members. Corruption is built into

the functioning of such countries' institutions. And, like the criminal organizations that are threaded through their fabrics, the networks cross international boundaries. (Chayes, 2017, pp. 3–4).

As a consequence, the distinction between corruption and organised crime effectively collapses.

And, with the breakdown of that differentiation, issues and lessons learned from corruption indices (CPI and WGI) become ever more relevant and transferrable to ENACT's VAT.

3.1   Corruption indices and their challenges

The Report identified a number of challenges the VAT will need to confront, among which were the need for data reliability, the current scarcity of credible data by which to assemble the tool, the problem of relying upon seizure as a way to measure TOC, and the challenge of comparability within and across the three dimensions of the tool. Consequently, this analysis will not delve further into any of these or other comparable topics already raised in the Report.

The literature on the issues, challenges, and uses of the CPI and WGI is voluminous. Among the still outstanding questions are those pertaining to perception data, definitions of corruption/organised crime, weighing of component indicators, comparison of index findings over time, indicator validity, and the purpose/objective for which indices are used. All of these challenges are valuable lessons learned for ENACT to absorb and address, to enhance the utility of the VAT by ensuring that it is a rigorous instrument of analysis.

Before discussing the valuable lessons learned from the CPI and WGI, it is important to highlight two salient discussions that took place during the conference and were raised in the Report. The first was the question of choosing a methodology in which the chosen indicators were succinct and limited to avoid the problem of 'multi-collinearity' – multiple variables explaining the same phenomenon. Preserving indicator independence, ensuring that each variable measures a distinct relationship, has been an acute challenge for the CPI and WGI.[50] The corollary of 'multi-collinearity' is, when independent variables are assembled to summarise the data, the resultant composite measure often becomes fuzzy, losing conceptual clarity.[51] As the Report aptly intimates, this is a challenging balance to achieve and maintain.

The second was the challenge of data reliability. As the Report notes, reliability is a key factor in the formulation of the VAT. Given the scarcity of good information about the extent of organised crime, it is probable that the margin of error in measuring the presence of criminal activity will be high. The challenge is to maintain a margin that allows the VAT to achieve its stated objectives. That may be a challenge across a number of criminal activities that the tool seeks to measure.

During the conference, for example, there was significant debate at the session and thereafter concerning the reliability of illicit financial flow data. According to the background paper on which the presentation on organised crime in the oil industry was based, 'the total annual cost of stolen oil [in Nigeria] runs anywhere from $3 billion to $8 billion, depending on estimates and circumstances'.[52] In the fishing industry there are similarly wide-ranging estimates, with 'the trade in illegal fishing products linked to criminal activity … somewhere between $10 billion and $23.5 billion a year'.[53]

For the VAT to become a go-to source of credible and reliable information, its indicators cannot have margins of error of 100–150%.

3.2   Perception data and corruption

Although derived from different sources, it is important to note that the data contained in the CPI and WGI is largely based on a series of perception surveys.[54] It is well known, however, that perceptions of corruption – and, therefore, organised crime – are indicative rather than reliable.

There is a virtually unbridgeable chasm across countries in terms of opinions about the prevalence and the experience of corruption.[55] In Europe, for example, a 2011–12 study found that 74% of the populace believed that corruption was a major issue, while only 8% had any direct experience of corrupt practices.[56] According to scholars, the analysis of perception of corruption/organised crime indicators shows 'a substantial amount of variation in reported levels of corruption [that] is not attributable to variation in actual corruption or to random measurement error but, rather, is driven by the choice of evaluator and hence is an artefact of the [perception] method selected to measure corruption'.[57] In addition, perceptions are subject to known biases, including those related to the bandwagon[58] and halo effect.[59]

Part of the difficulty in using perception data is that, even as each index specifies its understanding of corruption/organised crime, there is no guarantee that each respondent of the respective indices evaluates and perceives corruption the same way. It is much more likely that each respondent has a slightly different judgement as to what constitutes corruption/organised crime:

Most of the polls and surveys [from which the indices are composed] ask for a general opinion on the magnitude of the problem ('how widespread' is the problem), usually not the respondents' personal experiences, which basically means that they ask for people's subjective intuition of the extent of something unobservable… [It] is even unclear what this unobservable phenomenon is.[60]

This lack of clarity becomes more profound once a comparison of the indices is attempted, for there is no agreed-upon definition of corruption/organised crime. 'The main difference concerns the typology of sector, public or private, harmed by corruption.'[61] The CPI seeks to assess public power for private gain (wealth and status), while the WGI includes elite and private 'capture of the state' in its understanding of corruption/organised crime.[62] In short, the two indices appear to be measuring different phenomena.

This is important for the VAT, as it points to the need to ensure that the definition of TOC is consistent across all measurement instruments.[63] As was discussed at the conference and mentioned in the Report, this is thorny problem, particularly with regard to the differentiation between migration, smuggling and trafficking in persons. The challenge is compounded when the routes of these phenomena are untangled into intra-African continent movements versus out-of-Africa population flows, in part because the intra-African phenomenon is exponentially larger than the outflows.

The definitional challenge also arises when more narrowly gauged governance indicators are used to assess a government's capacity to respond to organised crime.[64] As has been discussed in this analysis, the measurement of the 'quality', 'capacity', or exercise of power in the 'public interest' of a state's political institutions is a Gordian definitional knot, once indicators evaluate factors other than 'outcome' data.

3.3   Weights assigned to indicators[65]

Each index is composed of countless discrete indicators that need to be merged and integrated in a credible and empirically reliable manner.[66] There is no single 'right' methodology for weighing indicators so that their combination creates a valid index. CPI, for instance, weighs its indicators equally, while the WGI does so according to which indicator provides a greater 'informative signal of governance'.

Above and beyond the issue of losing conceptual clarity when different variables are combined, the challenge is that different weighting methodologies produce significantly different results and that different objectives call for varying how component weights are assigned.

First and foremost, if one of the key issues in measuring corruption/organised crime is 'the harm' caused by the criminal activity, then the weighing of an index's component indicators needs to address the 'harm' perpetuated in two different ways, as it is evident that not all forms of corruption/organised crime are equal in the 'harm' they perpetuate.

To begin that assessment, it seems important to consider harm as both an 'independent' and a 'dependent' variable.

The 'harm' perpetuated varies according to the frequency and incidence, scope, value (gross and profit margin), and nature of the criminal activity. For example, it seems crucial for an index to differentiate between 'the harm' caused by drug trafficking and illicit financial flows, or between the fishery industry and the active ownership of state actors in organised criminal networks in such industries as land development/real estate, public procurement, and construction/infrastructure. Similarly, there is a significant debate as to which form of corruption/organised crime is more deleterious: the natural resource or the aid curse.

It is an equally intricate question how to weigh components when the 'harm' perpetuated is the dependent variable. For example, it is uncertain whether the 'petty' but daily corruption of a police officer causes more or less harm than the 'grand' criminal complicity perpetuated by a Ministry of Justice that facilitates drug trafficking. Similarly, it is hard to reconcile the differing types of criminal harm caused by the organised charcoal trade (environmental, loss of tax revenues, land grabs, etc.) with that of human trafficking (violence and human rights violations, health and education losses, psychological trauma, etc.). How, for instance, is harm to be allocated when a marked decrease in the violence perpetuated by drug trafficking is associated with a contemporaneous increase in the volume of the commodity being purveyed – as is currently the situation in the Andean region?

There is an added dimension when the 'location' of the harm is taken into consideration. While all crime is local, the repercussions of the crime and the harm it causes ripple out geographically. The CPI and WGI are national indices, but the investigations of Brazilian corruption/organized crime networks are prime exhibits of how 'harm' varies according to region (the Andean implications of the networks' activities), national (Brazilian), provincial/federal state (those dependent upon the natural resource income derived from Petrobras), and municipality (São Paulo). The environmental harm caused by deforestation or exploitation of wildlife is highly localised, but the effects can ripple out in unexpected ways. How to weigh those ramifications in an index is a challenge.

3.4 Time comparisons

Among ENACT's objectives in designing the VAT is to assist African states in their efforts to formulate strategies to reduce the incidence and impact of TOC. For the VAT to do so, its data must be comparable from year to year or across specified time periods.

For the CPI and WGI the question of longitudinal comparison has been a challenge. The time lags embedded in both indices' indicators pose significant difficulties to using their composite scores for purposes of comparability.[67] Furthermore, prior to 2012, Transparency International repeatedly cautioned that the CPI was not designed to permit country scores to be compared annually or across any other time period.[68] If country scores cannot be used across time periods, it is also unlikely that those scores can be used to compare countries.

There is another comparability lesson to be learned from the CPI and WGI. For indicators to be comparable across time, it is necessary for the measurement to vary over time. If there is excessive change in the variable or relatively little, it is difficult to interpret its meaning. This has been a challenge for the CPI and WGI for the periods from 2000–2011/12, as the

lack of change, far from being comforting, suggests that observed fluctuations in the CPI and the WGI on a year-to-year basis are likely to be misleading, both in terms of policy discussions and as a resource for research.[69]

3.5 Indicator validity

The issue of comparability raises another set of challenges for the WGI and CPI, namely the validity of indicators used by the indices. Many of the governance indicators used to measure corruption – such as level of economic development, state of democracy, level of intrusive business regulations, inflation, press freedom, all of which are believed to be associated with particular levels of corruption – do not correlate well with available measures of the actual experience of corruption, particularly when controlling for income.[70]

3.6 Index purpose and objective

Given these challenges, it has been difficult for either the CPI or the WGI to be used effectively as instruments by which states design policies and strategies to reduce corruption, as the organisations sponsoring the indices may have originally wanted their measurements to be deployed.

It is also interesting to observe that, in 2011, Global Integrity, which had published its index ranking countries according to the effectiveness of their anti-corruption policies and activities, intended to foster greater accountability and transparency, removed this index from its website. Global Integrity observed that among the reasons was

a conscious attempt to reinforce a key belief that we have come to embrace after many years of carrying out this kind of fieldwork: indices rarely change things. Publishing an index is terrific for the publishing organization in that it drives media coverage, headlines, and controversy. We are all for that. They are very effective public relations tools. But a single number for a country stacked up against other countries has not proven, in our experience, to be a particularly effective policy making or advocacy tool. Country rankings are too blunt and generalized to be 'actionable' and inform real debate and policy choices. Sure, they can put an issue on the table, but that's about it.[71]

The critical point for the ENACT programme then, is to be clear that the purpose of the VAT is to 'put the issue on the table', that is, to initiate a conversation on TOC or particular organised crime types and their impact in an interested country or regional body in an effort to encourage a policy response.

3.7 Crime types and harm

The VAT intends to include 12 significant transnational crimes, all of which are evidently relevant. Each of these 12 crime types refers to a commodity that is transportable across state borders. Therefore, each of the 12 constitutes a self-evident transnational crime. The definition and utility of the concept of transnational crimes, however, extends beyond the commodity – drug, weapon, person, natural resource, counterfeit good, etc. – that is transported across state lines. The definition and utility of the concept implicitly and explicitly include the harm caused by the effects of the criminal activity.

Money is a type of commodity that flows across international borders and, therefore, a reason – above and beyond money laundering – why illicit financial flows are one of the principal 12 crimes the VAT intends to include.

There is, however, an additional reason why financial flows are included, namely the harm incurred to the domestic market when illicit monies leave the country. The type of harm experienced may be a loss of public revenues derived from taxation,[72] loss of investment capital, an increase in the cost of living, higher inflation rates, inability to reduce poverty,[73] and a crystallisation of the power of organised criminal networks. Many of these harms have particularly deleterious effects on women and children.

All of these are acute and tangible harms. All are the effects of highly organised criminal activity in which no commodity crosses international borders. Instead, what crosses state borders are services and the proceeds of the organised crime (money). This movement of services and money flows, for purposes of the VAT, triggers the category of TOC.

Consequently, as has been suggested in the analysis of drivers of TOC above, there are significant organised crimes that ENACT may need to add to the original 12 in order for the VAT to accurately, reliably and credibly measure the presence of organised crime in any given country. The organised criminal activities are associated, in presumed order of the value of the crime, with real estate and land development,[74] public procurement, and infrastructure and construction.

It is likely that organised criminality associated with these activities will, in almost all African countries, exceed the value of any of the original 12 crime types selected for the VAT. It should also be noted that in organised criminality associated with these activities, state actors are likely to prevail as the dominant and active partners in the marriage with criminal entrepreneurs.

This analysis is not the place to detail the organised criminality associated with each of these activities – it suffices to note that these would include land theft, embezzlement, fraud and kickbacks, and money laundering.[75] It is also worth noting that the crimes associated with these three illegal activities are prevalent in countries ranging from Kenya and Angola to India, South Africa, Brazil and Colombia, not to mention the US and Italy.

The lessons learned from the CPI and WGI are inherently valuable and instructive for how ENACT proceeds with its design and implementation of the VAT. These lessons, however, have focused primarily on measurement challenges pertaining to the *presence* of organised crime. These lessons apply less to the VAT's third dimension, namely state capacity and political will. Measurement of state capacity and political will contains its own complexity.

3.8 State capacity and political will

One of the most intricate elements of ENACT is the VAT's inclusion of state capacity and political will as one of its three dimensions. It is also an exceptionally astute inclusion, given the relationships between organised crime, state capacity and political will.

Capacity

Capacity is customarily defined along five dimensions and can be measured along any one of them. The five are: attitude, knowledge, skills, behaviour and, lastly, an amalgamation of systems – structures – management – policies.

Other than behaviour, assessments of the other four dimensions are typically conducted through perception surveys and questionnaires, a good number of which are often self-assessments. The challenges posed by perception surveys have already been highlighted, and it is widely recognised that the difficulties encountered with self-assessments are significantly stickier. As one development practitioner once said at a workshop on capacity building, 'I know very well that I should exercise every day (attitude and knowledge), I have a gym membership (system and structure), and I have in the past hired a personal trainer (skills), but I still don't exercise regularly (behaviour) even though I tell myself that I do.'

Through numerous institution-building studies and evaluations, it has vexed development practitioners to derive credible correlations between behaviours (outcomes) and any of the other four dimensions along which capacity can be measured, in part because of intervening variables. For example, there is precious little credible or reliable data to suggest that development support for specialised criminal justice units (anti-corruption, drugs, organised crime, gender violence, anti-trafficking in persons, etc.) has, in fact, reduced the incidence, prevalence or harm perpetuated by the identified crime. Selected individuals may have been arrested, but the overall level of crime has not been reduced, the one outstanding exception being perhaps the International Commission Against Impunity in Guatemala.[76]

While managerial systems and cogent policies may be in place, there is no necessary causal link to, first, their implementation and, second, the production of desired behaviours (outcomes) because of discrepancies, for instance, between formal and informal organisational behaviours. Other intervening variables include leadership and cultural norms/practices, both of which can, for example, readily undermine the behaviours of knowledgeable and skilled personnel. Among the many issues is the knotty problem posed by collective action, which within group behaviour tends to have more powerful effects than those presupposed by the principal agent model under which, for instance, most anti-corruption programmes are grounded.

Consequently, while these four dimensions of capacity may be necessary to produce outcomes, they are insufficient to do so and, most likely, less than valid and credible indicators by which to measure capacity.

Nevertheless, there are reliable methods and techniques by which to measure capacity by means of behaviours (outcomes), a selected number of which are presented below. It is presumed that these approaches may prove fruitful as examples for the VAT in its effort to measure a state's capacity to respond to organised crime.

Political will and commitment

The proliferation of organised criminal networks poses serious challenges to measuring political will, as their existence and penetration have changed the basic rules of the game.[77] Married into and as partial owners of the organised criminal enterprises, state actors frequently behave to protect the illicit markets and their generation of rents to which they have gained access to the detriment of the public good. As one analyst states, 'state actors enable … and protect … the criminal economy, and provide … little foundation for rule of law'.[78] As a result, the verities of what was believed to be good development practice may no longer remain valid, as it cannot be assumed that state actors necessarily act with the public good as their primary motivation. Traditional development approaches working predominately with and through the state and its institutions may unintentionally have promoted the establishment and reinforced the strength of organised criminal networks.[79]

The result is that development concepts and practices such as political will, commitment,[80] cooperation, local ownership, and good or 'good enough' governance need to be re-examined, for there is no clear method of applying them in contexts in which the activities and operations of organised criminal networks are prevalent.[81]

As stated in the background paper on which the presentation at the Foundation Workshop on organised crime in the oil industry was based, 'It is also impossible to summon the political will to confront a criminal threat when the politicians are its perpetrators, so not all governments are equal in this issue. As research indicates, in case studies of Nigeria, Mozambique, Uganda, and Ghana, there are often political ties to illicit activity.'[82] A similar situation appears to exist within the fishing industry, for instance, 'in Angola where fishing vessels were being operated by employees of the Ministry of Fisheries'[83] and in Senegal, where the organised criminal network involved a range of Senegalese state actors, the Russian government and the Russian fishery industry.[84]

Nevertheless, states are not homogenous entities and most are not authoritarian in ways that foreclose opportunities to reduce the harm caused by organised crime. Furthermore, there will be circumstances in which organised criminal networks have not become sufficiently crystallised, so that space may still exist to minimise the penetration and impact of criminal networks. Lastly, international and regional pressures may leverage opportunities in which to mitigate the influence of the networks. In short, there may be a limited number of state actors in narrowly defined circumstances with whom it is possible to work to reduce or circumscribe the harms perpetuated by the networks. While determining these circumstances is a question of political economy analysis, measuring the possibilities of political will to act against organised crime is integral to the third dimension of the VAT.

There are emerging techniques to measure political will, using outcome data. Many of the empirically valid correlations that explain the risk of organised crime, as outlined in Annex A, can be deployed to measure political will, when and if appropriately configured. *Annual increases in successful civilian litigation against state administrative decisions*, accompanied by implementation of the judgements against the state, may suggest an overall willingness of state agencies to combat organised crime. If those decisions were to be disaggregated according to commodities/industries, it could provide a more nuanced picture of the areas in which political will exists.

Another variable for measuring political will is tracking the *annual percentage increase* in state budgetary expenditures for various agencies/units, narrowly defined, that are *directly* engaged in reducing organised criminal activity. This may begin to suggest the political will of a given country.

A more refined variable would be a correlation between the aforementioned annual increase and, first, the *annual percentage increase in the number of convictions* for organised crime perpetrators (disaggregated by commodity and type of organised crime) and, second, the *annual percentage increase in the number of perpetrators per case that results in convictions*.

Similarly, there appear to be correlations between types of commodities and the prevalence of TOC. For instance, 'very strong correlation[s exist] between levels of corruption in the land sector and overall public sector corruption in a country'.[85] This correlation suggests that political will to reduce organised crime overall in a given country could be calculated according to a *reduction in the incidence and/or value of that country's organised crime associated with land.* It is likely that there are a number of similar countrywide industry-type variables that can be used to measure a state's political will.

The REGIONAL ORGANISED CRIME OBSERVATORIES

As noted in the Report, the ROCOs are one of the pillars of ENACT and can be a flexible tool for the programme to prioritise issues and/or thematic areas, as well as to gather data to influence policy decisions and strategies across the continent. In addition, according to the Report, the ROCOs are to function as a vital player for the VAT, as the collector of data and the quality control body to ensure the data's credibility, reliability and validity. Additionally, the ROCOs are meant to monitor TOC trends and bring together various stakeholders.

To perform all of these functions, the Report rightly acknowledges the importance of the ROCOs' being independent, given the marriage between state actors and criminal entrepreneurs. The Report, however, also observes that the ROCOs will need to work with the respective government authorities to facilitate their acquiring credible data, as well as be a trusted partner that advocates for and influences policies and strategies. This is an exceptionally fine balance that the ROCOs will have to walk, and it places an immense pressure on the ROCOs.

Initially, it is anticipated that there will only be five ROCOs for the entire continent, with the staff of each being limited. It will be a serious challenge for the ROCOs to achieve all of these objectives with their constrained resources. It may be necessary, therefore, to prioritise and thereby circumscribe the objectives the ROCOs are intended to realise.

SUMMARY OF THE FINDINGS

1.1   To ensure that ENACT is able to respond appropriately to questions that will inevitably arise from its stakeholders, it is important to supplement the discussion of commodities and the industries in which TOC occurs with analysis of the relationship between state actors and criminal entrepreneurs, so as to come to terms with the politics, structure, and operations of organised criminal networks.

1.2   Three key drivers of TOC in Africa have been identified. There are, however, other drivers of TOC that may be equally pertinent – these are, among others, conflict, presence of valued natural resources, large inflows of international aid (particularly for institutional capacity building), the nature of the state, high levels of other (local) criminal activity, rate of urbanisation and informality of local systems.

1.3   If ENACT intends to use the term 'resilience' in its analysis, it would be appropriate for the programme to provide an operational definition and to list indicators for its measurement.

1.4   Given the complexity of and challenges associated with the VAT, as outlined in the Report and amplified in the experiences of other indices, it is critical that ENACT is clear that the primary purpose of the VAT is to 'put the issue on the table', that is, to initiate a conversation on TOC or particular organised crime types and their impact in an interested country or regional body, in an effort to encourage a policy response.

1.5   Data reliability and validity suggests that the baskets of indicators that the VAT is to use on each of its three dimensions should rely more heavily on outcome/result assessments than on qualitative and perception measures. Furthermore, to achieve credibility, it is advisable that those baskets should contain fewer rather than a larger number of discrete indicators.

1.6   The VAT intends to include 12 significant transnational crimes, all of which are evidently relevant. However, there are significant organised crimes that ENACT may need to add to the original 12 in order for it to accurately, reliably and credibly measure the presence of organised crime in any given country. These organised criminal activities are associated with real estate and land development, public procurement, and infrastructure development and construction, each of which may include a range of crimes such as theft, embezzlement, fraud, bribery and money laundering.

1.7   The inclusion of state capacity and political will as one of the three dimensions is exceptionally astute. However, setting appropriate indicators – and the attribution of causal linkages between these variables – will be challenging. There is much room for innovation and creativity here, though, and ENACT is encouraged to consider the analysis outlined in this report at 3.8, and the correlations listed in Annex A.

1.8   Regarding the functions of the ROCO, and especially given the programme's resource constraints, it is advisable to prioritise and thereby circumscribe the objectives the ROCOs are intended to realize.

Basic correlations

1.   One of the primary consequences of the emerging consensus is the need to redirect focus to a set of political and economic macro- and micro-correlations, through which the possibility exists of changing 'the rules of the game'. Many, if not all, of the following correlations suggest potential entry points for programming. It is important, however, to observe that the causal relationships behind these correlations in many cases remain uncertain and/or can move in either direction, depending upon the context. It is also important to note that these correlations are not normative in any way, recommending an idealised end state for countries currently burdened by organised crime. These correlations are data points, empirical information upon which political decisions can be grounded, from which theories of change formulated, and programmes designed.

2.   Among the basic correlations are:

- Strong relationship between levels of organised crime and corruption.[87]
- High levels of corruption are strongly correlated to low tax revenue collection and high levels of tax evasion.[88]
- High levels of corruption are correlated to low levels of direct foreign investment.[89]
- The lower levels of foreign penetration of a domestic market, the higher the rates of organised crime.[90]
- High levels of corruption are correlated to greater number of transactions to due regulatory regimes.[91]
- Low regulatory standards are correlated to higher levels of organised crime.[92]
- Ease of small business creation is associated with lower levels of organised crime.[93]
- Ease of small businesses' ability to obtain bank loans is associated with lower levels of organised crime.[94]
- Better national accounting standards are associated with lower levels of organised crime.[95]
- Effectiveness in limiting monopolistic business practices is correlated to lower levels of organised crime.[96]
- Lower percentage of media being state-owned is associated with lower levels of corruption.[97]
- Increased levels of judicial independence, measured through perception surveys, are correlated with lower levels of corruption.[98]
- Increased levels of judicial consistency, coherence, and quality of legal reasoning in judicial opinions and decisions are correlated to lower levels of organised crime.[99]
- Higher rates of litigation against government (the likelihood of winning a dispute filed against the government or a state agency) and greater compensation for state intervention (the existence of the legal right to seek compensation from the state for damages incurred as a result of unlawful state interference) are correlated to lower levels of organised crime.[100]
- Higher levels of political intervention in the appointment, dismissal and promotion of civil servants are correlated with higher levels of organised criminal activity.[101]
- Informal economies are readily transformed into economies in which illicit commodities are traded,[102] which, in turn, is correlated to high levels of organized crime.[103]

Notes

[1] See Sarah Chayes. *When Corruption is the Operating System: The Case of Honduras*. Carnegie Endowment for International Peace, 2017; James Cockayne, *Hidden Power: The Strategic Logic of Organized Crime* (Hurst, 2016); John de Boer and Louise Bosetti, The Crime-Conflict "Nexus": State of the Evidence, *United Nations University Centre for Policy Research*, *Occasional Paper # 4,* 2015; *Development Responses to Serious Organised Crime*, Workshop hosted by DFID and the Global Initiative Against Transnational Organised Crime, 14-15 October 2015, readout prepared by Ben Challis/DFID; Ivan Briscoe, et al., eds. *Illicit Networks and Politics in Latin America*. (International IDEA, 2014); see also the case studies in the compilation, Camino Kavanagh, ed. *Getting Smart and Scaling Up: Responding to the Impact of Organized Crime on Governance in Developing Countries*. (Center on International Cooperation, 2013); and James Cockayne, *Chasing Shadows: Strategic Responses to Organised Crime in Conflict Affected Situation*. Royal United Services Institute for Defence & Security Studies, Vol. 158, No. 2, 2013. Recent examples of (1) Petrobas and Odebrecht in Brazil and Latin American, implicating large swathes of the Brazilian political class, (2) the sagas of ex-president Viktor Yanukovych of Ukraine, and (3) the Kabila family in the Democratic Republic of the Congo only reinforce this understanding of the marriage that lies at the heart of organised criminal networks, see *All the President's Wealth*. The Congo Research Group, 2017.

[2] This shifting balance of power between the two partners of organised crime is one of the key reasons the consensus on the characteristics of organised crime has emerged.

[3] This conclusion that can be extracted from the findings of the break-out sessions devoted to the various types of transnational organised crimes at ENACT's *Enhancing Africa's response to transnational organised crime, Regional Organised Crime Observatories: Foundation workshop*, in Cape Town, South Africa, 2017.

[4] For instance, the recent break-up of Nigeria's management and control of the country's oil industry into more than 20 separate government-managed entities is an excellent example of a reform that, while announced as a 'good governance' and anti-organised crime initiative, is, in fact, an almost perfect solution inevitably to strengthen organised crime given the increased number of opportunities for the exploitation of rent from one primary state corporation to more than 20.

[5] It is partially because organised criminal networks function primarily as businesses that there is no necessary correlation between the prevalence of organised crime and violence. The use of violence in the perpetuation of organised crime can be best modelled as a business decision and usually occurs for control along the 'value-added' chain.

[6] 'Value added' can be defined as 'niche' skills (e.g. chemistry, piloting, or finance) or 'locational/functional/managerial' (e.g. the importance of coordination and/or leadership).

[7] Economic theory postulates that the highest value added is typically also the highest per capita/unit cost factor. Whether that holds true for the products of organised crime remains to be studied.

[8] Edgardo Buscaglia and Jan van Dijk, Controlling Organized Crime and Corruption in the Public Sector, *Forum on Crime and Society*, Vol. 3. Nos 1 and 2, UNODC, 2003, pp. 3-34. The study included a vast range and types of countries from Finland to Venezuela, Denmark to Mongolia, and Belgium to Bulgaria to Zimbabwe.

[9] Eric Scheye. Organised Crime in Stabilisation Contexts. *Stabilisation Unit, HMG*, 2016.

[10] One-party rule includes governments de facto dominated by military regimes (Egypt, Pakistan, Fiji) or liberation movements (Mozambique, Angola, Zimbabwe) that have effectively enshrined themselves into office despite a façade of democratic elections.

[11] Rentier states are those where the primary money flows are from the state/government to the people (through various types of entitlements) due to the income generated by the state's ownership (partial or complete) and exploitation of natural resources, causing the state/government to be financially independent from the citizenry.

[12] Libya is a classic example of a one-party and rentier state, which subsequently collapses; see also Julia Anderson, et al. *Evaluating Success in Tackling Transnational Organised Crime Overseas*. UK Office for Security and Counter-Terrorism, 2015, p. 86, where it is asserted that in the aftermath of the fall of the Soviet Union and Warsaw Pact countries, a pre-existing black market trade in cigarettes and other products predated the emergence of highly structured and organised networks of human smuggling and drug transit in post-Soviet countries.

[13] *Controlling Organized Crime*, p. 19.

[14] 'Fragility and limited economic opportunities are not sufficient indicators [for organised crime. What is required for organised crime] to materialise, it is essential that the country also has some geographical proximity to major markets or to trafficking routes towards these markets,' *Evaluating Success*, p. 47.

[15] *Governance and the Law*, p. 27.

[16] Simeon Djankov et al. The Curse of Aid. *Journal of Economic Growth*. Vol. 13, pp. 169–194, 2008, p. 179, 184; see also Aid and the Resource Curse, 'On average, countries with above average aid receipts relative to GDP promptly show a political deterioration. The effect of aid over the long run is substantial' (p. 2). Curiously, in its analysis of the aid curse, although the World Development Report refers to the governance problem, it does fully explore its effects, but primarily refers to its financial and economic consequences.

[17] Todd Moss, et al. *An Aid-Institutions Paradox? A Review Essay on Aid Dependency and State Building in Sub-Saharan Africa*. Center for Global Development, Working Paper Number 74. 2006 p. 1.

[18] Ales Bulir and Timothy Lane. Aid and Fiscal Management.' In Sanjeev Gupta, Benedict Clements, and Gabriela Inchauste (eds.), *Helping Countries Develop. The Role of Fiscal Policy*. Washington, DC: International Monetary Fund. 2002; Mark McGillvary and Oliver Morrissey. Aid Illusion and Public Sector Fiscal Behaviour. CREDIT Research Paper No. 00/9. University of Nottingham, 2000.

[19] Karen Remmer. 2004. Does Foreign Aid Promote the Expansion of Government? *American Journal of Political Science,* 48(1). 2004.

[20] Tony Killick. *The Politics of Ghana's Budgetary System*. CDD/ODI Policy Brief No. 2, November 2005. It seems to be the case that aid provided as loans is less disruptive than assistance in the form of grants.

[21] David Booth. Aid, Institutions and Governance: What Have We Learned? *Development Policy Review*, Vol. 29, pp. s5-s26. 2011, p. s11.

[22] Alberto Alesina and Beatrice Weder. Do Corrupt Governments Receive less Foreign Aid? *American Economic Review* 92(4). 2002.

[23] M. Berrittella and C. Provenzano. *Organized Crime and Public Spending: A Cross-Country Analysis*. Submitted to XXVII Conference SIEP: Public Policies in Financial Crisis. September 14, 2015; see also *Do Oil Windfalls Improve Living Standards?*

[24] Transparency International's survey of African defence sector points out an important area of potential organised crime industry, namely military ownership of economic corporations and assets for which there is little to no oversight and, hence, may be highly susceptible to organised criminal networks, see Transparency International. *Regional Results Africa: Government Defense Anti-Corruption Index*, 2015.

[25] Aid, Institutions and Governance: What Have We Learned? p. s11.

[26] Deborah Bräutigam and Stephen Knack. Economic Development and Cultural Change. Vol 52, No. 2, pp, 255-85, 2004, p. 276.

[27] Ibid, p. 256.

[28] Efforts at transparency through the Extractive Industries Transparency Initiative (EITI), for instance, have not proven effective, see Benjamin Sovacool et al. Energy Governance, Transnational Rules, and the Resource Curse: Exploring the Effectiveness of the Extractive Industries Transparency Initiative (EITI). *World Development*. Vol. 83, pp. 179–192, 2016.

[29] B. Kante. *Local Capacity for Global Agenda: Impact of Cities on Global Environment*. Second World Urban Forum, Dialogue on Urban Sustainability. Barcelona, Spain. 2004.

[30] C. Nwanna. Gentrification in Lagos State: Challenges and Prospects, *British Journal of Arts and Social Sciences*, Vol. 5, No. 2, 2012.

[31] H. Handelman. (1975) The political mobilization of urban squatter settlements: Santiago's recent experience and its implications for urban research. Latin American Research Review 10.2, 35–72; R. Lemarchand and K. Legg (1972) Political clientelism and development: a preliminary analysis. Comparative Politics 4.2, 149–78; Singerman, D. Avenues of participation: family, politics, and networks in urban quarters of Cairo. Princeton University Press, 1995.

[32] Oladayo Ibrahim. *Rural Depopulation: The Planning Implications for the Development of Urban Lagos*, pp. 102; see also P Kelly. Managing Megacities: A Spatial Solution in Megacities: Trends in Spatial Information Management: FIG Publication No 48 2010. 2011.

[33] See Robert Muggah. *Researching the Urban Dilemma: Urbanization, Poverty, and Violence*, IDRC, 2012, where it is argued that 'since the majority of the urban poor are located on marginal land – often lacking basic public services ranging from public lighting to police protection – they tend to be more exposed to predatory activity of organized and petty criminals. And as most of the urban poor are also engaged in informal sector income generation,' (p, 34) which is similarly dominated by organised criminal networks.

[34] Liza Weinstein. Mumbai's Development Mafias: Globalization, Organized Crime and Land Development. *International Journal of Urban and Regional Research*. Vol. 32. No. 1. 2008, 22–39. p. 23.

[35] Ibid, p. 37.

[36] It should be noted that in Mumbai a significant percentage of the organised criminal networks' activities in real estate took place when strict rules and regulations were in place to oversee property development, which only underscores the difficulty of uprooting the networks once they have been established and have embedded themselves during periods of informality.

[37] N. Banks. 2008. A Tale of Two Wards: Political Participation and the Urban Poor in Dhaka City. *Environment and Urbanization* 20, 2, 361-376, 2008. This author observed how, outside the local labour court, stood representatives of the *mastaans*, who working with lawyers in the employ of textile factories, stood waiting for plaintiffs to cajole, threaten, and, as a last result, buy them off so that they would not file labour complaints. In this way, the *mastaans* were, effectively, networked into the international garment industry.

[38] Gregory Pierce. 'Engaging the Local Public Sector to Meet Slum Residents' Practical and Strategic Service Needs: Evidence from Hyderabad, India.' In. *Urban Solutions: Metropolitan Approaches, Innovation in Urban Water and Sanitation, and Inclusive Smart Cities, A New Generation of Ideas*. Wilson Center, 2016, p. 25; see also J. De Wit and E. Berner. Progressive Patronage? Municipalities, NGOs, CBOs and the Limits to Slum Dwellers' Empowerment. *Development and Change* 40(5): 927–947, 2009; M. Zerah. Participatory Governance in Urban Management and the Shifting Geometry of Power in Mumbai. *Development and Change* 40(5): 853–877, 2009.

[39] Lainie Reisman and Aly Lalá. *Assessment of Crime and Violence in Mozambique: And Recommendations for Violence Prevention and Reduction*. Open Society Foundation, 2012.

[40] Ibid, p. 19.

[41] Ibid.

[42] See Katie Peters et al. *'Resilience' Across the Post-2015 Frameworks*. ODI Working Paper, November 2016. p. 13.

[43] See François Grünewald and Jock Paul. From early warning to reinforcing resilience: Lessons learned from the 2011-2012 Sahel response - A report for the IASC Principles, 26 November 2012, where it is stated 'the debate on what "resilience" means and how this emerging concept can help shape the response both strategically and operationally is very much alive, with more questions than solutions' (p. 14).

[44] This analysis chose to use the CPI rather than that organisation's *Regional Results Africa: Government Defense Anti-Corruption Index* because of the comprehensiveness of the former with regard to the range of source materials and surveys used and the narrow focus of the latter to a single sector and which has no longitudinal continental data.

[45] OECD. *OECD Glossary of Statistical Terms*. (Paris, 2008).

[46] Council of Europe, 1999.

[47] Council of Europe, 1999.

[48] A well-known distinction exists between 'petty' and 'grand' corruption, but these types of corruption cannot be readily correlated or reduced to a differentiation between 'bribery' and 'corruption'. Furthermore, the relationship, causal or otherwise, between 'petty' and 'grand' corruption remains ambiguous.

[49] Sarah Chayes. *When Corruption is the Operating System*, Carnegie Endowment for Peace, 2017, p. 5.

[50] L. Langbein and S. Knack. The Worldwide Governance Indicators: Six, One, or None? *Journal of Development Studies* 46(2): (2010) 350–370.

[51] J. Van Dijk and F.K. Van Mierlo. Indicators of corruption: further explorations of the link between corruption and implementation failure in anti-trafficking policies. *Working paper, International Victimology Institute (INTERVICT), University of Tilburg, the Netherlands*, 2011.

[52] Ian Ralby. *Downstream Oil Theft: Global Modalities, Trends and Remedies*. Vol. 1. Atlantic Council, 2017, p. 15.

[53] Anastasia Telesetsky. Laundering Fish in the Global Undercurrents: Illegal, Unreported, and Unregulated Fishing and Transnational Organized Crime. *41 Ecology L.Q.* (2015), p. 942. This is not a challenge experienced only or primarily by developing countries, for in the US '20 to 32 percent of the weight of wild-caught seafood is estimated to be either illegal or unreported' (Ibid).

[54] See M. Philp. Corruption Definition and Measurement. In C. Sampford, et al. (eds.), Measuring Corruption. London: Ashgate, (2006) 45–79; S. Andersson and Paul Heywood. The Politics of Perception: Use and Abuse of Transparency International's Approach to Measuring Corruption. Political Studies 57 (2009): 746–767; M. Thomas. What do the Worldwide Governance Indicators Measure? *European Journal of Development*

Research 22: (2010) 31–54; Debora Malito. Measuring Corruption Indicators and Indices. EUI Working Paper RSCAS 2014/13; and Paul Heywood and Jonathan Rose 'Close but no Cigar': The Measurement of Corruption. *Journal of Public Policy*, 34 (3). (2014) pp. 507-529.

[55] Claudio Abramo. How Much Do Perceptions of Corruption Really Tell Us? *Economics: The Open-Access, Open-Assessment E-Journal* 2 (2008), p. 5**.**

[56] European Commission. Special Eurobarometer 374: Corruption, http://ec.europa.eu/public_opinion/archives/ebs/ebs_374_en.pdf, 2012.

[57] A. Hawken and G. Munck. Do You Know Your Data? Measurement Validity in Corruption Research, working paper, School of Public Policy, Pepperdine University, 2009, 12.

[58] This effect is when respondent perceptions cluster, so that it is nearly impossible to know if the belief in the phenomenon is based on facts or fiction; see S. Sequeira. Advances in Measuring Corruption in the Field. In D. Serra and L. Wantchekon (Eds.), *New Advances in Experimental Research on Corruption*. Emerald Group Publishing, 2012. 'The bandwagon effect is particularly remarkable within the indices of state capacity, where the corruption measures rely directly on existing corruption indicators. The *Control of Corruption*, for instance, is one of the most widely used indicators of corruption within almost all the indices of state weakness: since the WB attributes higher weight to major correlated sources, the high correlation existing between governance perceptions rankings risk to perpetuate perception errors,' Measuring Corruption Indicators, p. 14.

[59] This is the propensity to associate corruption with lower levels of development; see Advances in Measuring Corruption.

[60] T. Søreide. *Business Corruption: Incidence, Mechanisms, and Consequences*. Thesis submitted for the degree at the Norwegian School of Economics and Business Administration (NHH), Bergen, Norway 9 February 2006, p. 26.

[61] Measuring Corruption Indicators, p. 5.

[62] J. Lambsdorff. *The Institutional Economics of Corruption and Reform*. Cambridge University Press, 2007.

[63] In criminology, this definitional challenge is a well-known problem besetting the measurement and comparability of crime and crime rates across countries.

[64] This is one of the lessons learned from indices such as Index of State Weakness and Failed States Index.

[65] This analysis does not discuss the related and equally challenging and technical task of index scaling, an issue that the CPI and WGI face and propelled the CPI to change its methodology in 2012. Because indices are built by assembling data that is derived from different units of measure, it is a significant challenge to scale the indicator's data into a common unit.

[66] While this issue is, partially, the corollary of 'multi-collinearity', it is also much more than that.

[67] The CPI is measured annually, for instance, but many of its indicators have a two-year time lag.

[68] The CPI's 2012 rescaling may facilitate some comparability, but the reliability of that effort, longitudinally, remains to be assessed.

[69] See P. Heywood and J. Rose. Close but no Cigar: The measurement of corruption. *Journal of Public Policy* 34 (3), 2014.pp. 8-9.

[70] D. Treisman. What Have We Learned about the Causes of Corruption from Ten Years of Cross-National Empirical Research? *Annual Review of Political Science*, *10*, (2007) 211–244.

[71] Global Integrity 2011.

[72] John Christensen. Africa's Lost Tax Revenue, Lost Development Opportunities. *Association of Concerned African Scholars Bulletin* No. 87, 2012, p. 49.

[73] Janvier Nkurunziza. Illicit Financial Flows: A Constraint on Poverty Reduction in Africa. *Association of Concerned African Scholars Bulletin* No. 87, 2012.

[74] 'Findings from a Transparency International survey in 2009 suggest that government bodies which oversee the land sector are one of the public entities most plagued by service-level bribery. Only the police and judiciary have higher levels of bribery,' Corruption in the Land Sector. *Transparency International*, No 4., 2011, p. 3.

[75] That 1.1 poor billion people currently live in informal settlements – a number that is expected to rise to 2.5 billion in the next 20 years – upon which no or illicit title to the land exists and for which rent may be paid to the illegal owner, highlights the extent of the problem, as is the case in the slums of Nairobi and Cape Town. Similarly, it can be claimed that up to 2 million African Colombians were dispossessed of their lands during the years of the most recent conflict by associates of the former president – lands upon which palm oil farms now flourish, thus preventing them from returning to where they had once lived. The rents accumulated by state actors through fraudulent public procurement schemes and in public infrastructure/construction industries, such as the building of the Chinese railroads in East Africa, the sale of minerals rights in West Africa, and the employment of ghost public servants throughout the continent, need to be included in accounting of the VAT.

[76] The commission is a UN-funded joint international and Guatemalan entity, in which internationals provide technical investigative, legal, and prosecutorial expertise to Guatemalan authorities in the pursuit of complex and politically sensitive cases. Although the Organization of American States is trying to replicate this type of joint body in Honduras, the likelihood of many other countries' abdicating part of their sovereignty is limited.

[77] According to the 2017 World Development Report, 'Moreover, in the process of reform and development, the rules game is where the action is … [T]he rules game is where power asymmetries are manifested, whereby some actors have more direct influence (elites) and others have only indirect influence such as through voting (citizens),' World Bank, *Governance and the Law*, World Development Report 2017, p. 18.

[78] *Development Responses to Organised Crime*, p. 20.

[79] This unintentional strengthening can be attributed, among other factors, to organised criminal networks being able to access rents due to (1) the 'aid curse'; (2) the informality of the systems arising from rapid urbanisation; and (3) state-building initiatives after conflicts during which organised criminal networks have been able to leverage their power to solidify their control over state functions.

[80] For instance, 'a major challenge facing the continent is the commitment of political leaders to development planning. The required commitment is not only expressing verbal announcements on the issues involved, but announcements backed by appropriate action. In this respect, it is noted that in many countries of the continent political leaders accord other matters higher priority than they do to development planning,' Ali Abdel Gadir. *Development Planning in Africa: Key Issues, Challenges and Prospects: A Background Paper*. E/ECA/COE/30/8 AU/CAMEF/EXP/8(VI), p. 17.

[81] The challenges posed by the contemporaneous strength of organised criminal networks are the best gauge and test of the three positive drivers of change enunciated in the 2017 World Development Report – elite bargains, citizen engagement, and international interventions. The same applies to the plausibility of the three prerequisites for development – commitment, coordination, and cooperation.

[82] Ian Ralby, *Downstream Oil Theft: Global Modalities, Trends and Remedies*. Vol.2 Atlantic Council, 2017, p. 4.

[83] Maíra Martini. Illegal, Unreported and Unregulated Fishing and Corruption. *Anti-Corruption Resource Centre*, No. 392, 2013, p. 6.

[84] André Standing. Corruption and State-corporate Crime in Fisheries. *Anti-Corruption Resource Centre*, No. 15, 2015.

[85] *Transparency International*, 2011, p. 2.

[86] Eric Scheye. Organised Crime in Stabilisation Contexts. *Stabilisation Unit, HMG*, 2016.

[87] See *Evaluating Success*, the 'indicator of high levels of corruption derived from the World Bank governance indicators was strongly and positively correlated to a composite index of organised crime prevalence' (p. 17); see also Edgardo Buscaglia, et al. *Undermining the Foundations of Organized Crime and Public Sector Corruption: An Essay on Best International Practices*. Hoover Institution on War, Revolution and Peace, 2005.

[88] *Illicit Financial Flows*, p. 58; see also *Controlling Organized Crime*, 'The tax system is an important economic dimension that has a major impact on organized criminal activities. An environment where tax evasion is prevalent is often accompanied by the higher levels of organized crime associated with the nature and scale of money-laundering' (p. 8).

[89] *Evaluating Success*, p. 28.

[90] 'This suggests that openness to foreign trade or investment is important in permitting new economic forces to challenge incumbents within domestic markets and to undermine the old economic capture of a territory by organized crime,' *Controlling Organized Crime*, p. 7.

[91] *Undermining the Foundations of Organized Crime*, 2005; see also, *Controlling Organized Crime*, where it is claimed that, overall, 'the statistical link between increased red tape and higher corruption proves to be positive and very strong' (p. 19). This applies directly the customs regimes, where 'statistics showed a negative correlation between corruption and the quality of the customs bureaucracy and their efficiency, measured in terms of procedural complexity and abuse of discretion exercised by customs officials in the exercise of their duties,' *Controlling Organized Crime*, p. 19.

[92] *Evaluating Success*, p. 18.

[93] *Controlling Organized Crime*, p. 11.

[94] 'If small or large businesses find it difficult to obtain loans, they will rely on illegal sources for the provision of financial services at higher interest rates (usury). The statistical results confirm' this, *Controlling Organized Crime*, p. 10.

[95] *Controlling Organized Crime*, p. 11.

[96] *Controlling Organized Crime*, p. 7.

[97] *Controlling Organized Crime*, p. 17.

[98] *Undermining the Foundations of Organized Crime*, p. 18; 'independence and integrity of the judiciary was the most important predictor of the extent of organized crime', *Undermining the Foundations of Organized Crime*, p. 13.

[99] *Undermining the Foundations of Organized Crime*, p. 18; see also 'corrupt judges were found to abuse their substantive and procedural discretion through rulings that slowed down or obstructed law enforcement in organized crime cases' (p. 19); and Edgardo Buscaglia and Samuel Gonzalez-Ruiz. 'How to Design a National Strategy against Organized Crime in the Framework of the United Nations?' In, *Palermo Convention in the Fight against Organized Crime*. Vienna: United Nations International Drug Control Programme, 23–26, 2002, a study that concluded that 'unjustified procedural delays, contradictory uses of jurisprudence in the same case-types found in the same court, and the use of irrelevant jurisprudence or unrelated (i.e., incorrect) laws to support judicial rulings' were associated with higher levels of organised crime (p. 18).

[100] *Controlling Organized Crime*, p. 20.

[101] *Controlling Organized Crime*, p. 11.

[102] *Crime and Conflict*, p. 26.

[103] *Undermining the Foundations of Organized Crime*; see also *Evaluating Success*, where it is argued 'that countries or regions that transit 'semi-licit' goods, which may include smuggled cigarettes, natural resources, or counterfeit goods, may also be more vulnerable to the emergence of fully illicit trades. Countries with large existing informal sectors and black markets may be more susceptible to economic capture by large organised criminal organizations' (pp. 43-44).