

# THE CRIME-DEVELOPMENT PARADOX

## Organised crime and the SDGs

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Introduction

Page 2

Organised crime as a  
cross-cutting spoiler to  
Africa's development

Page 8

Implementing a  
development agenda and  
closing the 'space between'

Page 26

The way forward: crime-  
sensitive and crime-  
proof development

Page 28

## CHAPTER 1

### Introduction

Promulgated by the UN General Assembly in September 2015, the Sustainable Development Goals (SDGs) are a landmark achievement by the international community, coming together around 17 universal goals intended to end poverty, protect the planet and to ensure that all people can enjoy peace and prosperity. Like their predecessor the Millennium Development Goals (MDGs), they are intended to provide a universal call to action for the development community. Yet while their expansion – from the previous eight MDGs, to 17 SDGs made up of 169 separate targets – may have increased the comprehensiveness of the framework, it does not help to chart priorities among competing development objectives. Instead, it provides an extensive and all-inclusive list of development objectives and places the onus for the prioritisation and implementation at the national level.

#### Acronyms

<b>ASM</b>	artisanal and small-scale mining
<b>AU</b>	African Union
<b>CITES</b>	Convention on International Trade in Endangered Species of Wild Fauna and Flora
<b>DAC</b>	Development Assistance Committee
<b>FDI</b>	foreign direct investment
<b>IFFs</b>	illicit financial flows
<b>ILO</b>	International Labour Organisation
<b>IUU</b>	illegal, unreported and unregulated (fishing)
<b>ODA</b>	official development assistance
<b>OECD</b>	Organisation for Economic Cooperation and Development
<b>RECs</b>	regional economic communities
<b>RMs</b>	regional mechanisms
<b>SALWs</b>	small arms and light weapons
<b>SDGs</b>	Sustainable Development Goals
<b>WACD</b>	West Africa Commission on Drugs
<b>UN</b>	United Nations

In considering the likely trajectory of SDG achievement, therefore, it becomes beneficial to examine how different states, regions and continents may use the SDG framework to mobilise their development strategies. In the context of Africa, the clearest statements of intent can be found in Africa's development Agenda 2063, which was adopted by the African Union (AU) in a process conducted in parallel to the SDGs in 2015. Both of these frameworks refer to themselves as aspirational, setting broad-reaching, comprehensive and ambitious targets. Both frameworks also acknowledge the interdependence between development and security, noting that one cannot be achieved without the other.

When, in September 2015, the objective to 'combat all forms of organised crime' was promulgated as one of the 169 targets of the SDGs this was a quietly heralded landmark occasion. Even as the interrelationship between security and development was becoming increasingly well recognised, under the previous development architecture, organised crime was exclusively a security issue, not eligible for Organisation for Economic Co-Operation and Development (OECD) 'Development Assistance Committee' (DAC) funding. It was thus isolated outside of the mandate of development actors. In contrast, the SDGs, in particular Target 16.4, unequivocally place organised crime on the development agenda.

**SDG Target 16.4:** By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organised crime.

Target 16.4 is not the only one to make explicit mention of organised crime. Multiple crime types feature as a cross-cutting threat to development. Target 5.2 proposes to 'eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation'; Target 8.7 pledges to 'take immediate and effective measures to eradicate forced labour, [and] end modern slavery and human trafficking...'; and Target 16.2 desires to specifically end trafficking in children.

Environmental crime is also addressed. Target 14.4 aims to end illegal, unreported and unregulated (IUU) fishing, and Target 15.7 vows to 'take urgent action to end poaching and trafficking of protected species'.<sup>1</sup> These are just the explicit mentions. A Global Initiative against Transnational Organised Crime study of 2015 recognised that organised crime could directly and significantly impact the ability to achieve 23 of the 169 SDG targets – i.e. almost 15%.<sup>2</sup>

## Organised crime is divisive and destructive. It is poison in the well of global sustainable development

However, although the SDGs may recognise organised crime as a cross-cutting threat to development, this still does not fully capture the harm that organised crime poses to SDG achievement.

The SDG agenda acknowledges the 'indivisibility' of the framework. It pertinently observes that the goals and targets are 'integrated and indivisible and balance the three dimensions of sustainable development: the economic, social and environmental'.<sup>3</sup> This means that the achievement of the SDGs requires progress across the broad spectrum of the agenda, and that failure to achieve targets in one goal area may preclude the achievement of others.

The SDGs have immense transformative potential, but both directly and indirectly organised crime has proven to be a cross-cutting threat to the achievement of core and essential development objectives. Organised crime not only directly threatens specific goals, such as the reduction of poverty and the promotion of economic growth; but also the general maintenance of global biodiversity and sustainable environments; the building of safe and inclusive societies; the promotion of public health and peoples' well-being; and even the orderly management of

migration. Whereas the SDGs are indivisible, organised crime is divisive and destructive. It is poison in the well of global sustainable development.

A more holistic analysis suggests that there are three types of risk to SDG achievement that emanate from organised crime:

- The ongoing and direct risk that organised crime presents to individual goals;
- The risk that development investments are diverted, owing to a failure to account for organised crime's influence
- The risk that development investments themselves increase organised crime.

This report, which is intended for national and multi-lateral policymakers, as well as development practitioners more broadly, should be viewed as a broad-scope reference work on the impact of organised crime, examines each of these phenomena in turn. In all five priorities of the SDGs – people, planet, prosperity, peace and partnership – the inter-relationship with organised crime needs to be more fully considered. This is critical both for protecting development gains from the negative impacts of organised crime, determining the way that organised crime itself is responded to, and predicting how effective those responses will be.

Two key assumptions generally underpin how responses to organised crime are crafted: firstly, that organised crime is universally a negative ill (a threat to society, security, the economy and governance); and secondly, that better development will have a positive impact on the drivers of organised crime.<sup>4</sup> A closer analysis suggests that, particularly in the African context and given the way in which development is being promoted for the continent, both of these assumptions may be wrong. The result of these incorrect assumptions being used as the theory of change around which responses are designed has meant that in a number of cases, the responses themselves have compounded and exacerbated the harms from organised crime.

## Illicit, informal and aspirational markets in Africa

As acknowledged in the previous ENACT foundational continental report, 'Africa's Changing Place in the Global Criminal Economy', the illicit economy is an important source of livelihoods on the continent, as it is often the means by which the poor and the marginalised access Africa's natural resource wealth. Artisanal mining, poaching, illicit fishing, siphoning and smuggling fuel, or smuggling of various other commodities can serve as a resilience strategy, meeting basic needs for some of the continent's most vulnerable.

## Any attempts to address poverty reduction and developmental goals must take criminal markets into account

Activities in the illicit economy can also lift peoples' fortunes – new illicit industries, such as cybercrime, have brought prosperity; and illicit services, such as the smuggling of migrants, provide generational returns on development for individuals, their families and communities – far greater than could have been achieved through traditional, donor-funded development.

For these reasons, attitudes to organised crime on the continent do not always match with those of the international community, and the aspirational targets contained in the SDGs do not always resonate in the same way with African communities and their leaders. For example, and as this report will explore, the communities that are denied access to the valuable fauna inside some of Africa's national parks have viewed efforts to combat wildlife trafficking as a means to protect tourism at the cost of their livelihoods and cultural practices. SDG targets to end human trafficking (8.7), and to facilitate orderly migration (10.7) appear more as efforts to prevent migration than as attempts

to assure development dividends for those who aspire to them. While the harms of drug abuse are very well known in some communities on the East African coast, those who use cannabis production for income smoothing or who profit from the transit trade in harder narcotic drugs where these have a limited local market, consider this a fair profit with little stigma.

The overlaps between the illicit and informal economies are significant, and it has become increasingly challenging to draw a line between them. Criminalising what should best be perceived as informal has resulted in reducing the protections available to workers, while increasing the attractiveness for criminal capture and exploitation.<sup>5</sup> And as the informal economy represents a sizeable part of economic activity in African countries – in fact among the largest in the world<sup>6</sup> – any attempts to address poverty reduction and developmental goals for the continent must take criminal markets into account. However, this analysis is largely absent from the scenarios currently envisaged for Africa's development.

## Africa's development priorities

Within the African context, the AU's Agenda 2063, is the principal framework for the achievement of Africa's development priorities. While there are also strategies and initiatives in place at the level of the regional economic communities (RECs), these are at uneven levels of development and implementation, and largely follow the strategic framework of Agenda 2063. The continental agenda is, therefore, the principal vision and framework for development in Africa, and thus together, the SDGs and Agenda 2063 are expected to address a range of political, economic, social and environmental challenges facing the continent.

Agenda 2063 is a long-term strategic framework for the socio-economic transformation of the African continent over the next 50 years. It takes its guiding vision from the vision of the AU itself – to achieve '[a]n integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in the international arena'.<sup>7</sup> Agenda 2063 builds upon and seeks to accelerate past and existing continental initiatives for growth and sustainable development.

It distinguishes itself from past approaches, because – much like the SDGs – Agenda 2063 was derived from a bottom-up process that included exhaustive consultations with citizens. It consequently defines itself around seven ‘African aspirations’:

1. A prosperous Africa, based on inclusive growth and sustainable development
2. An integrated continent, politically united, based on the ideals of Pan-Africanism and the vision of Africa’s Renaissance
3. An Africa of good governance, democracy, respect for human rights, justice and the rule of law
4. A peaceful and secure Africa
5. Africa with strong cultural identity, common heritage, values and ethics
6. An Africa whose development is people driven, relying on the potential offered by people, especially its women and youth and caring for children
7. An Africa as a strong, united, resilient and influential global player and partner<sup>8</sup>

While there is little dispute that these are indeed aspirational, with little chance of practical implementation within the five-decade timeframe that is dedicated to their achievement, they nonetheless serve their purpose in setting a vision and outlining a set of priorities for Africa’s development.

These aspirations have been translated into corresponding goals, priority areas, targets, and strategies, divided into five 10-year implementation periods. The first spans the period 2014 to 2023. Agenda 2063 has many synergies with the SDGs, which provide an opportunity to implement both without unduly burdening policymakers with multiple development frameworks.<sup>9</sup>

The flagship projects of Agenda 2063 that were approved by the 2013 AU Summit are indicative of the means by which the continent seeks to achieve the aspirations laid out there. Intended to ‘provide quick wins, impact on socio-economic development

and enhance the confidence and the commitment of the African Citizenry to be the owners and drivers of Agenda 2063’.<sup>10</sup> Flagship projects include, among others, the creation of an integrated high-speed train network; a continental commodities strategy that will enable African countries to diversify their economies and integrate into global value chains; the creation of a Continental Free Trade Area; an African passport and the free movement of people across the continent. The flagship projects also promote a pan-African e-network to ‘lead to transformative e-applications and services in Africa’.

It is hard to see, however, how these high visibility projects will transform into tangible development returns for the average African, remembering the political barriers that have prevented even small steps towards trade integration and free movement, and the significant portion of Africans whose births remain unregistered, who are unbanked and excluded from the formal economy, and where Internet penetration on the continent rarely reaches more than 10% of the population.

Furthermore, as is clear from Agenda 2063’s priorities, the main vision for what will drive Africa’s development concentrates on economic stimulus and infrastructure investment. While these initiatives, and other such projects which focus on deepening the continent’s engagement in global trade will undoubtedly bring multiple benefits, it should also be acknowledged that they may bring considerable risks. Using the World Bank’s comprehensive Worldwide Governance Indicators as a measure, the plethora of statements committing to better governance and reducing corruption have failed to translate into any notable improvement in indicators for governance, transparency or capacity for financial regulation. Between 1986 and 2016, the results for sub-Saharan Africa suggest that, at best, that the quality of continental governance has flatlined, and in some categories – such as control over corruption – it has declined.<sup>11</sup>

Given declining levels of official development assistance (ODA) and the fact that the onus for SDG achievement rests at national level, the expectation is that these

projects and targets will be realised through high levels of private sector investment. There has been an emphasis on 'blending official development assistance with private capital flows, including private investments and loans, to reduce poverty more efficiently'.<sup>12</sup> One of the challenges with this approach is that without proper monitoring, oversight and transparency, investments of this nature do not necessarily result in broad-based and equitable development gains.

While the analytical understanding and recognition of the interwoven nature of development, security and organised crime may have grown, there is very little evidence that analysis is being translated into implementation agendas, or that past lessons have been assimilated. Agenda 2063 Aspiration 4 ('A peaceful and secure Africa'), Goal 37, which is the only goal to directly remark on organised crime, states:

Africa shall be free from armed conflict, terrorism, extremism, intolerance and gender-based violence, which are major threats to human security, peace and development. The continent will be drugs-free, with no human trafficking, where organised crime and other forms of criminal networks, such as the arms trade and piracy, are ended. Africa shall have ended the illicit trade in and proliferation of small arms and light weapons.<sup>13</sup>

The isolation of organised crime as a threat puts stakeholders on the back foot in understanding the phenomenon as a cross-cutting threat to development. The complexity of the underlying social forces and the role of insufficient social and economic development are not seen as part of the problem.<sup>14</sup> In turn, responses to organised crime are then similarly limited. For example, responses to organised crime have been hobbled by a lack of effectively domesticated legal instruments; weak legal codes; a lack of information, analysis and response options for member states and RECs and regional mechanisms (RMs) with regard to organised crime; and insufficient knowledge about the nexus between organised crime, terrorism and violent extremism.<sup>15</sup> Such responses will thus do little to mitigate the negative externalities development may hold for the continent.

## The 'space between'

In Africa, foreign corporate and criminal actors inserted themselves into post-independence and post-conflict transitions, connecting within fragile or corrupted state institutions and providing access to international markets for both licit and illicit goods, including weapons. Since the turn of the millennium, those connections have flourished with globalisation, masking illegal activity in the flurry of the popular 'Africa rising' narrative.<sup>16</sup>

## Organised crime in Africa is strongly associated with a blurring between the legitimate and the illegitimate

Organised crime in Africa is strongly associated with a blurring between the legitimate and the illegitimate, not only at the entry level in the grey economy, but also for the controllers at the top. Across the continent, there are examples where organised crime is closely intertwined with politics, including at the highest levels of the state. Fixers with political and business connections have brought together an 'unholy trinity' of corporate enablers who grease the wheels of corruption and crime, ensuring the smooth movement of illicit commodities, access to and control of arms (thereby contributing to competing challenges to the monopoly on violence), and the laundering of the profits of crime and graft.<sup>17</sup>

Many fingers have been pointed in explaining how illicit flows could pervert Africa's development trajectory. Governance failures by African states – clientalist, nepotistic and simply corrupt regimes – certainly have had a role to play, but the role of ODA and foreign direct investment (FDI) in influencing organised crime's integration into the political-economy of African progress has not gone unremarked. In fact, it was a combination of self-serving African governments, enabled by self-interested external aid and corporate

flows that quickly created a self-reinforcing paradigm that has ensured Africa's wealth and resources do not translate commensurately into development gains for the continent's citizens.

As the Africa Progress Panel regrettably concluded in 2013, even while the exploitation of the continent's natural resources boomed, the continent fell far short of transforming that growth into genuine development. For example, OECD statistics showed that FDI largely chased the extractives economy: the 12 largest recipients of FDI in 2009, for example, all were all oil producers, and 11 out of 12 were in Africa.<sup>18</sup> This was in part owing to an absence of 'the public policies and political leadership needed to translate wealth into expanded opportunities'.<sup>19</sup> Such policies, leadership and integrity were neither proffered by the emerging cadre of African leadership, nor demanded by the international community or foreign corporate partners.

As a number of critics have observed, including most recently a distinguished panel of African leaders writing a foundational document for the Agenda 2063, international aid policies have also played a significant role.<sup>20</sup> In the 1980s and '90s, the International Monetary Fund (IMF) and World Bank (WB) policies of structural adjustment served to re-orientate African economies outward, broke rural-urban production linkages and reduced state investment in welfare, education and health.<sup>21</sup> When they were subsequently drawn down, and international aid resources were withdrawn, replacement sources of income had to be found. In many cases, this led to alliances with foreign corporations or criminal groups that could provide illicit alternatives.<sup>22</sup>

The unchecked proliferation and movement of small arms and light weapons into and across the continent has ensured that the continent remains violent and weaponised, challenging governance, undermining peaceful democratic process and perpetuating both local and transnational conflicts.<sup>23</sup> Political, economic, ethnic and interpersonal challenges are all too often now settled through violent means, including through assassinations; a service provided by criminal groups and the illicit economy.<sup>24</sup>

While the AU and the various RECs have put forward numerous strategies and initiatives to better control arms on the continent, these often-ambitious policies have shown little effective implementation, hindered by capacity and resource constraints, and in some cases an absence of genuine political will.<sup>25</sup> As such, the ubiquity of weaponry and the failure to control legitimate stocks results in high and violent death trends.<sup>26</sup>

In other African contexts, such as post-conflict settings, certain policy responses such as disarmament, demobilisation and reintegration (DDR) were targeted at meeting stability goals, but did not sufficiently focus on providing sustainable alternative livelihoods for armed actors, or on building resilience within political systems against organised crime and the threat it poses to democratic consolidation.<sup>27</sup>

Consequently, organised crime has been allowed to creep unchecked into the 'space between' governance, economic stimulus and development, and there it has flourished, further undermining the legitimacy of state institutions, and providing limited incentives for citizens not to engage in, or benefit from organised crime.

## The perils of development

As the United Nations Office on Drugs and Crime (UNODC) recognised in its 2010 global threat assessment:

...the underworld has become inextricably linked to the global economy, and vice versa, through the illicit trade of legal products (like natural resources), or the use of established banking, trade and communications networks (financial centres, shipping containers, the Internet) that are moving growing amounts of illicit goods and thus profiting crime.<sup>28</sup>

The rise of organised crime is traditionally attributed to a triumvirate of weak rule of law, corruption, and poverty. This would suggest that better governance, justice and, to some extent, greater development would prove the panacea. However, studies on the evolution of organised crime on the African continent suggest that development and economic growth, rather than mitigating the drivers of organised criminal activity, often exacerbate and expand them.<sup>29</sup> Certain aspects

of even successful development enhance the risk of organised crime.

Investments in improving Africa's trade infrastructure, for example, as is proposed under the Agenda 2063, could increase the risk of organised crime if there are not proper oversight and control mechanisms. Major nodes of global trade – e.g. ports or airports – are always vulnerable to becoming hubs of the illicit economy.<sup>30</sup> There are already cautionary tales from the continent in this regard. The 1970s boom in sea-borne trade following containerisation, prompted massive investment in the development of West Africa's port infrastructure as a staging post for wider regional trade.<sup>31</sup> This, in turn, facilitated West African coastal states in becoming ideal transshipment points for cocaine as a transit trade in the early 1990s. This co-mingled with the established West-East trafficking in hashish to create highly lucrative drug corridors that overwhelmed legitimate trade flows, and created around them a strong protection economy to facilitate the flow.<sup>32</sup>

Organised crime is a transnational threat, and increasingly potent criminal networks that transcend national boundaries are part of a wider realignment of the economic and social order in the international system since globalisation. Each country, every continent, is as much part of the global illicit economy as it is of the licit one, and their governance, economic and development trajectories are shaped by global illicit flows.<sup>33</sup> These are challenges that require integrated solutions that address both the supply of and demand for illicit commodities, and to deal with groups with both transnational and local forms of control.

Organised crime groups, whether local mafias, criminal gangs or global trafficking networks, will affect individual citizens' access to livelihoods, their sense of security and community, and their confidence in their state and its institutions. It will define their interactions with violence of many kinds. Therefore, to effectively address organised crime and its impact on development, it is necessary to build integrated approaches and coalitions across sectors that can resonate at local, urban, national, regional and transnational levels; a daunting task that infinitely compounds the challenges of SDG achievement.

It is perhaps telling that no indicator has been approved for measuring achievement against the component of Target 16.4 that relates to the fight against organised crime. On the list formally approved by the UN, the indicators for 16.4 relate only to reducing illicit financial flows (IFFs) and the proportion of seized small arms.<sup>34</sup> This is a reflection of the fact that organised crime is intrinsically hard to measure, but arguably would also suggest that there is little political will behind the implementation of this agenda.

This is by no means to argue that organised crime should be the foremost development priority in Africa. But the failure to recognise firstly that development carries risks, and secondly that organised crime has the ability to insinuate itself into the space between economic growth, governance and development, risks it becoming a spoiler to achieving those very goals. If the SDGs are to realise their potential in Africa, and if the true spirit of Agenda 2063 is to be achieved, then it must be a priority for all to 'crime-proof' development. It is also imperative that development interventions become sensitive to their possible impact on the political economy of criminal actors and illicit flows.

## CHAPTER 2

### Organised crime as a cross-cutting spoiler to Africa's development

The first sentence of the preamble that launched the SDG Agenda for 2030 states boldly and simply, 'This Agenda is a plan of action for people, planet and prosperity.'<sup>35</sup>

**These three Ps embody the core development objectives of the SDGs, and encompass 15 of its 17 goals:**

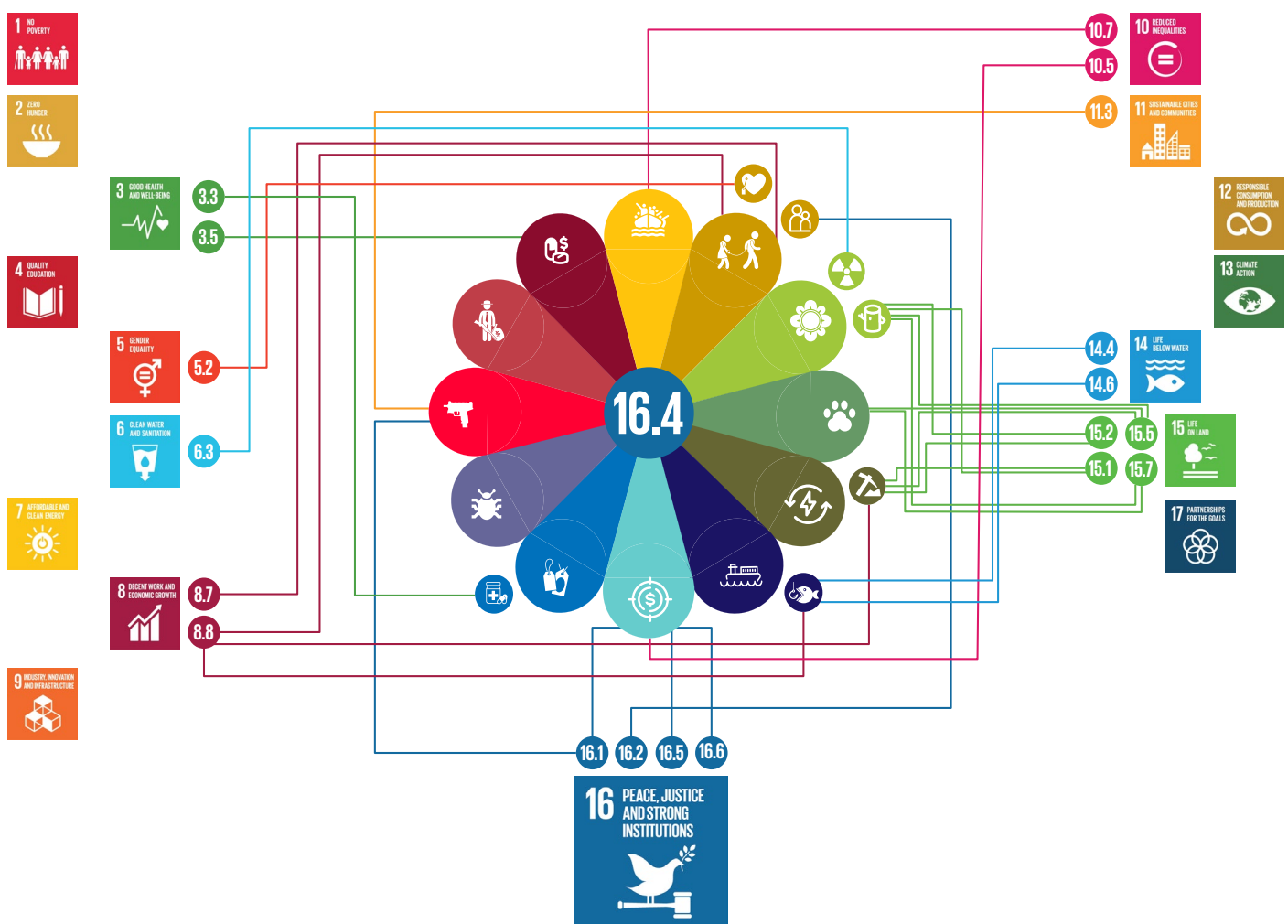
People: We are determined to end poverty and hunger, in all their forms and dimensions, and to ensure that all human beings can fulfil their potential in dignity and equality and in a healthy environment.

**Planet:** We are determined to protect the planet from degradation, including through sustainable consumption and production, sustainably managing its natural resources and taking urgent action on climate change, so that it can support the needs of present and future generations.

**Prosperity:** We are determined to ensure that all human beings can enjoy prosperous and fulfilling lives and that economic, social and technological progress occurs in harmony with nature.

Due to the indivisible nature of the SDGs, organised crime's pernicious influence and its negative impacts taint every one of the 17 SDG goals. Both directly and indirectly, organised crime presents a challenge to Africa's achievement of the SDGs across all three main development areas: prosperity, people and planet. Figure 1, below, attempts to map the complex interconnections between forms of organised crime and the 17 SDG goals. The diagram highlights how illicit economies and organised crime sprawl across these foundational development objectives, featuring as risks to everything from environmental sustainability,

**Figure 1: Mapping organised crime's impact on SDG goals and targets**



Source: GIATOC

to socio-economic development, urban management, public health, poverty and inequality-reduction, and gender.

But the institutional home of organised crime, within SDG 16, sits apart from those core development objectives in a fourth area of concern: 'Peace'. Here the combined will of the signatories to the SDG agenda state, 'We are determined to foster peaceful, just and inclusive societies which are free from fear and violence. There can be no sustainable development without peace and no peace without sustainable development.'<sup>36</sup>

Organised crime is arguably well situated here. Organised crime is most commonly connected to the peace and security agenda, both in the African context and globally. Concepts relating to crime and violence span across SDG 16, which is the centrepiece of the SDGs' approach to peace, justice and security. Peace is certainly a necessary foundation to achieving advances in the other development areas, and vice versa. As such, solutions to the challenges of organised crime, and mitigating its impact on development cannot be achieved without multi-pronged approaches that address obstacles to both security and development.<sup>37</sup>

However, like Agenda 2063, if the silo-ed approach to organised crime is maintained in implementation, this will prove a challenge for lessening its threat. The relationship between development and crime is complex, uneven and given to ambiguity. As such, it needs a more systematic framework for analysis and response from the development community.

### **Illicit narcotics: an illustration of organised crime as a cross-cutting development threat**

The challenge of responding to drug trafficking highlights well the cross-cutting nature of organised crime and the considerable impact that it can have on SDG achievement. Further advanced than other issues, the dialogue around drug policy shows how a national framework for implementation, such as the SDGs, will struggle to respond to transnational threats and questions around prioritisation, where interventions and cooperation are required along a cross-continental supply chain.

Questions of drug policy are both complex and controversial, and there is limited scope to do them justice in a review such as this one,<sup>38</sup> but even a relatively cursory look illustrates the complexity of the issues that need to be examined and addressed from a development perspective.

The trade in illicit narcotics directly threatens the achievement of Target 3.5 (Strengthen the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol), and endangers the achievement of a wide range of other goals. These include:

- SDG 1 (to end poverty), given the involvement of the poorest spectrum of the economy in both drug cultivation, trafficking and use;
- SDG 2 (to end hunger and achieve food security) given the practice of replacing agriculture with drug cultivation; and
- SDG 3 (to ensure healthy lives), given the manifold effects that illicit narcotics have on individual health, and on public health systems to address drug treatment and care, as well as the risk of increased HIV transmission through injecting drug use.
- It also affects SDG 5 (to achieve equality and empowerment for women and girls), not least because of the intersection between drug use and prostitution, but also because of the disproportionate impact of drug control policies on women.
- Although less relevant in Africa, links have also been made to SDG 15 (on sustainable use of terrestrial ecosystems), as large-scale drug cultivation has been associated with forest clearances and deforestation.<sup>39</sup>
- Finally, for SDG 16, the copious profits and violence associated with the drug trade are largely unmatched by any other illicit market or commodity.

Since the turn of the millennium, various parts of the continent have become transit points for the global

trade in cocaine and heroin. This has resulted in both an increasing number of Africans becoming involved in the illicit trade, as well as using drugs themselves.<sup>40</sup> Strategies by the traffickers themselves to widen their client base, coupled with African states' lack of capacity, complicity or prioritisation at the time, lead to illicit narcotics not previously used on the continent becoming cheaper and more readily available, in particular in poor communities both in urban centres and at distribution points along the coasts.

The consequences for the integrity of states and their institutions have been considerable. Investigations into the drug trade across the continent, including the ground-breaking work of the West Africa Commission on Drugs (WACD), have shown how the drug trade has been facilitated by a wide range of actors from legitimate society and the economy.<sup>41</sup> The WACD uncovered the extent to which illicit drug profits had penetrated through emerging multi-party democracies, connected by systems of patronage and corruption, through to the highest levels of government. Studies in Eastern and Southern Africa have come to similar conclusions.<sup>42</sup>

The impact has been diverse across the continent, but almost universally it has exacerbated social and political tensions. In West Africa, drug trafficking has fed into serious political instability; in the Sahel, drug trafficking profits have bankrolled corruption, insurgencies and separatism; in the marginalised communities of South Africa's Western Cape, the drug trade has fuelled the rise of drug gangs, turf wars and extraordinary levels of violence. These symptoms were surprisingly slow to come to national or international attention, and the attribution of a causal relationship to the drug economy was even slower.

From a development perspective, there are a number of ambiguities. In Africa, attempts to respond to drug trafficking are broadly seen to have done a disproportionate amount of harm for the limited results that have been achieved. A 2013 UNODC study suggested that sharply rising rates of global drug-related offences were driven largely by statistics from Africa, where more than 80% of such offences were for the possession of illicit narcotics, violent crimes or property

crimes committed by people dependent on drugs.<sup>43</sup> African prison populations rose by 25% from 2000-2015,<sup>44</sup> but with no positive demonstrable reduction on crime levels, or to organised crime, which has become increasingly virulent with ever closer and higher linkages into African states. Furthermore, zero tolerance, strict legislation, harsh law enforcement, and extensive low-level arrests and prosecutions have created a social stigma around drug use, exacerbating harms among drug users in sub-Saharan Africa who feel constrained from seeking treatment or support.

## In Africa, attempts to respond to drug trafficking are broadly seen to have done a disproportionate amount of harm

In addition, little evidence exists – although this may be in part owing to a lack of funding for research on the topic<sup>45</sup> – that drugs themselves are a major impediment to African economies. For example, rather than harming development, the production of Africa's two largest drug crops – cannabis and khat – are used as 'compensation' crops (a resilience mechanism to smooth and boost the incomes of farmers), and are firmly integrated into community economies. The UNODC estimates that cannabis is cultivated in 43 of Africa's 55 states, and historically has been used by local populations. In this context, and particularly for the African countries that have large subsistence agricultural economies, there are immense challenges to incentivise farmers to restrict themselves solely to legal crops. Furthermore, as Western states progressively decriminalise cannabis for recreational use, the challenge of engaging African governments in the fight against its production becomes increasingly spurious.<sup>46</sup>

The initial hard-line stance has shown some evidence of softening. The AU has begun to champion drug treatment and care programmes, as well as a more balanced approach. While a few individual states are

broadening their perspectives on the issue, this is not a universal position taken by African governments on a national basis.<sup>47</sup>

This does not imply that there are straightforward responses, such as legalisation, to be found. Even those governments that have relaxed somewhat their hard-line approach to the drug problem, or that are considering the decriminalisation of certain substances, face significant challenges. Firstly, the decriminalisation debate focuses on cannabis only, and does not address the enormous health and societal challenges in those communities dealing with heroin and methamphetamine use. Secondly, the funding available to support addiction, treatment and care programmes remains limited, and attitudes towards drug users will take time to change. Thirdly, states' capacity to effectively regulate even partially legalised drug economies is thin, and without regulation the public health benefits will be hard to realise. Finally, legalisation of production may result in commercial production that overwhelms the 'artisanal' small-scale production providing the income-smoothing benefits cited above.

Rather, a multi-faceted response that draws a varied set of stakeholders to the table is necessary. In 2013, the US Agency for International Development concluded that supply reduction (interdiction) efforts alone could not address the challenges of drug trafficking in Africa. Instead, a wide-ranging engagement is required from development practitioners from all sectors: health, education, poverty reduction and governance.<sup>48</sup> Finding that degree of consensus and coordination adds to the already manifold challenges.

The dialogue on drug policy also draws attention to SDG 17, with questions around the prioritisation, partnership and financing of SDG achievement. Dealing with violence, environmental destruction and health impacts stemming from illicit narcotics trafficking have not only directly eroded those development objectives, but has also diverted resources away from delivering services and meeting people's needs. Total ODA in 2016 was US\$142 billion, of which US\$26 billion went to Africa.<sup>49</sup> The global cost of enforcing anti-drug policies is a minimum of US\$100 billion a year.<sup>50</sup> The significant

sums invested into drug control underscore the need for development actors in Africa to address questions of prioritisation in the context of global discussions on the financing of SDG achievement.

## **Peace: Protection Economies and the Peace Agenda**

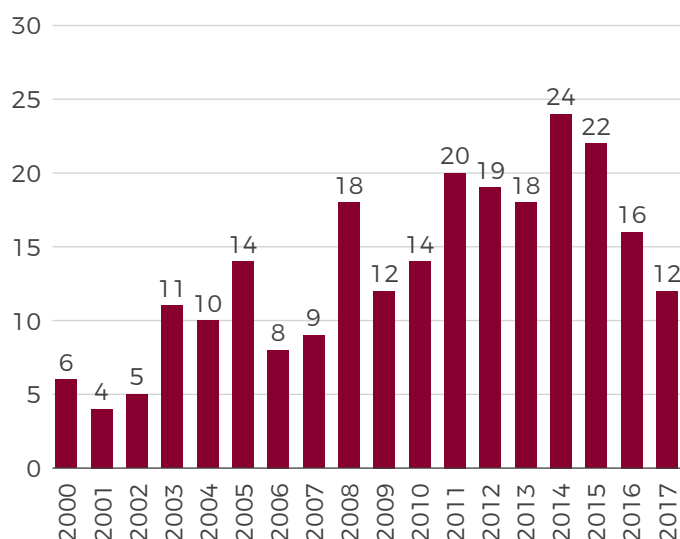
Protection economies are understood to be the use of violence and/or corruption by illicit actors to secure criminal markets, and the related income streams. While the two are not mutually exclusive, they do tend to exist on a spectrum.

The connection between organised crime and sustainable development is multi-layered, but the perceived causal relationship between organised crime and violence is the golden thread. Crime and violence are increasingly recognised as one of the foremost development and social challenges of the contemporary age, negatively implicating a range of individual, micro, societal and structural risk factors, such as increased poverty, inequality, social exclusion, unemployment and inadequate services. Exposure to crime and violence is more acute for those who experience high levels of inequality and poverty, or who have inadequate access to services.<sup>51</sup> If Africa is to achieve the vision held in Agenda 2063, of a 'peaceful and secure Africa', addressing organised crime will need to be a priority.

Organised crime and violence can have a symbiotic relationship. From independence struggles, to the Congo wars, to the separatist conflicts of the Sahel, to the contemporary conflicts in Libya and the Democratic Republic of the Congo (DRC) and terrorist groups in Nigeria, Somalia and northern Mali, the interconnection between African conflict, resources, trafficking and crime has become intractable. Criminal groups feed off 'reservoirs of violence' – groups of underemployed young men, trained in and de-sensitised to conflict and bloodshed – to create the capacity to control key markets and routes.<sup>52</sup> In the African context, and in every region of the continent, this has played out in conflict and post-war periods, where combatants have used illicit resources to sustain or intensify their violent struggles. In some cases, the profits of illicit trade have also served to protract those conflicts. Consequently,

organised crime is increasingly featuring on the docket of the UN Security Council in conjunction with conflicts in Africa. As the graph below demonstrates, since the millennium, the number of UN Security Council resolutions that mention organised crime in the context of African peace and security have been consistently high, representing in some years as much as 38% of the total resolutions posted in that year.<sup>53</sup>

**Figure 2: Number of UN Security Council Resolutions that mention organised crime in relation to African conflicts (2000 to November 2017)**



Source: GIATOC

The continent is scarred by the spectre of rising violent deaths.<sup>54</sup> Major African cities are seeing levels of criminal violence and predatory governance that are better identified with the gang-ridden slums of Central America. In Cape Town, South Africa, homicide rates are in the top 10 globally, at an astonishing rate of 63/100 000, driven largely by competition between trafficking groups.<sup>55</sup>

Increasingly, assassinations, kidnapping for ransom and violent extortion are rising as practices threatening citizen security in Africa's megacities and economic hubs. In this way, organised crime's impact on the peace agenda also connects to SDG 11, to make

cities and human settlements inclusive, safe, resilient and sustainable.

As the 2013 Global Homicide Report noted, a worrying development is that homicide levels in Northern, Eastern and Southern Africa are rising as a result of political violence, which in turn then fosters lethal violence related to criminal activities.<sup>56</sup>

As noted earlier, the ubiquity of small arms and light weapons in Africa plays a significant role in explaining these violence and conflict trends. An active and diverse set of illicit markets ensure continued, widespread access to weaponry. Sources of illicit arms flows in Africa range from the diversion of legitimately procured national stockpiles to artisanal production. Low prosecution of arms dealers suggests that there is a high level of complicity between international sources of weapons and key continental actors, and insufficient rigour in monitoring weapons supply chains and continental arms embargoes.<sup>57</sup>

In one of the sharpest divergences from the SDGs, Agenda 2063 places a strong focus on the security agenda, including common defence, foreign and security policies for the continent. Responding to organised crime is situated within this domain: Aspiration 4 (A peaceful and secure Africa), Goal 37 – the only goal to directly remark on organised crime (as indicated above).

Key programmatic initiatives include reducing the trade in small arms and light weapons (SALWs). SALWs are targeted by the SDGs (Target 16.4) and Agenda 2063 (Aspiration 4, Goal 37). One of only a few of Agenda 2063's flagship projects that do not have a direct economic objective is 'Silencing the guns by 2020', an effort to address the illicit flow of SALWs in line with international instruments and best practices.

Several policies and instruments are in place to support and facilitate implementation efforts. These include the AU SALW Proliferation Strategy and, at the RECs level, strategies on small arms proliferation, such as the Nairobi Protocol, the Southern Africa Firearms Protocol, the ECOWAS SALW Convention and the Kinshasa Convention for the Control of SALW and their

Ammunition in Central Africa, as well as the Regional Centre for Small Arms.<sup>58</sup> But weapons transactions are notoriously corrupt, as they trade on the secrecy that cloaks the defence business and the large sums involved. Graft appears in very sophisticated ways. Payoffs are targeted at the top, as well as at the many mid-level players along the way, in order to ensure that the political costs of disclosure are too high to bear.<sup>59</sup>

While there is scope for mainstreaming organised crime into implementation efforts, as asserted above, isolating organised crime within one target and thus depicting it as a one-dimensional phenomenon, puts stakeholders on the back foot in understanding it as a cross-cutting threat to development.

While organised crime and violence are not always synonymous, it is only in the cases where organised crime is connected to overt violence that either domestic or external actors are inclined to react or respond.

Anti-organised crime strategies find their pointed edge when it comes to the intersection of organised crime and violence, where few states have shown any inclination to extend mercies. The treatment of organised crime as a security issue, as characterised in the Agenda 2063, results in securitised, criminal justice responses. Yet a strict law enforcement approach is often at odds with access to justice, and can have a detrimental impact on development. This is because policing 'crackdowns' tend to have a disproportionate impact on the poor, vulnerable and marginalised, and can in fact exacerbate the very conditions they seek to solve.<sup>60</sup> Lessons can be learned from significant efforts at the international, continental and national levels to widen the approach to crime and violence prevention to encompass cooperative, developmental, rights-based tactics.

However, as illustrated in the 'protection economy' spectrum, organised crime and violence are not positively correlated. In other words, the levels of violence in society do not reliably indicate how much organised crime is present. Even while violence and the threat of violence may be an important part of the strategy of crime groups, overall levels of violence can fall

as crime groups grow in power, consolidate their control over key markets, reduce competition and exert greater influence over state institutions. In short, violence may have ceded to widespread and high-level corruption in some parts of the continent.

Organised crime is a significant threat to the rule of law and governance, as well as to the capacity to build strong states. As African states themselves have asserted, 'governance and institutions in particular are fundamental to sustainable development, as they provide the foundation on which economic growth, and socially responsible and environment-friendly development rests.'<sup>61</sup> Weak institutions and low state capacity are often the caveats used to justify Africa's challenges in achieving other goals and targets.

## Violence may be an important part of the strategy of crime groups, but overall levels of violence can fall as crime groups grow in power

The fight against organised crime is no different in this regard, where strengthening the capacity and integrity of law enforcement, customs officials, border control and the judiciary, among other stakeholders, is seen as the default response to criminal challenges. But experience has shown this approach to have considerable weaknesses. Firstly, the resources available to criminal groups often simply out-guns any national efforts, regardless of the investment made and its efficacy. Secondly, criminal groups' infiltration of state institutions often undermines all efforts to counter transnational organised crime, with its capacity to bribe frontline offices and corrupt those at the highest levels of power.<sup>62</sup> Corruption of government officials and distortion of governance also create impunity for criminal acts by undermining the legitimacy of the state and its institutions.

However, it would be a mistake to characterise organised crime and corruption as a one-way street. Instead, as ethnographic studies on the continent have shown, the state can play a diverse and active role in enabling criminal activities, along a spectrum of complicity.<sup>63</sup> At the bottom end of the scale, parasitic organised crime groups may rely on connections to existing authority and weak regulation to serve their interests. They target the state for protection and revenues, without seeking to supplant or wilfully destroy established authority. State actors may drive demand for illicit products, provide supplies, or facilitate the transport of any given flow. At higher levels, arms of the state and key institutions often act as facilitators or gatekeepers for criminal activities, for example around the awarding of contracts or tendering. The military and police can also be co-opted to protect illicit flows.<sup>64</sup> Corruption has a negative impact on the internal and external legitimacy and the effectiveness of justice and security sector institutions, and erodes public confidence in their officials.<sup>65</sup>

In short, what repeated analyses across Africa have concluded is that the evolution of organised crime on the continent has consolidated to create an 'unholy trinity' of corrupt governments, unethical corporations, and organised crime.<sup>66</sup> The most sophisticated criminals are often connected with legitimate businesses, taking advantage of legitimate trade infrastructure to move illicit products, or the cover of legitimate trade to disguise and launder illicit profits. With their activities, they provide livelihoods and opportunities for the communities in which they are based. They play an important and legitimate role in the local economy and exert influence over local authority figures.

Studies have shown that for the people of the community, 'it is difficult to distinguish drug traffickers from other businesspeople and those returning from living and working overseas, as the behaviour of the traffickers appear to mirror legitimate business elites'.<sup>67</sup> This damaging triumvirate has blurred the lines between the legitimate and illegitimate, with progressively sophisticated operation methods making it increasingly problematic to define and respond to organised crime.

Despite the significant negative effect corruption can have on development, it is not adequately addressed in either development framework. SDG Target 16.5, which aims to 'substantially reduce corruption and bribery in all their forms', is the only reference to corruption in the SDGs. Neither good governance, nor anti-corruption was highlighted as a priority in the African input paper to the SDG process, presented in 2015.<sup>68</sup> The indicators for measuring impact relate to the proportion of individuals and businesses forced to pay a bribe,<sup>69</sup> which puts the emphasis on transactional corruption, rather than more systemic forms of corruption, or indeed grand mal corruption, which is the level to which organised crime and the resources from illicit flows may penetrate.

Accordingly, there is broad consensus on the need to go beyond monitoring progress in the fight against corruption solely under the aegis of SDG 16. Corruption affects all SDG-related sectors, undermining development outcomes and severely compromising efforts to achieve other goals. This makes for a compelling case to monitor corruption in 'mainstream' sectoral SDGs instead of limiting it exclusively to SDG 16.5.<sup>70</sup>

Agenda 2063 also only makes passing reference to corruption. Rule of law is highlighted in Aspiration 3 of Agenda 2063, which calls for '[a]n Africa of good governance, democracy, respect for human rights, justice and the rule of law', but goals are limited to making corruption and impunity a thing of the past.<sup>71</sup> This remains an issue of high concern, however, flagged repeatedly by different arms of the UN system. Many African countries have taken concrete steps regarding structural indicators, ratifying appropriate treaties and establishing appropriate bodies.

This reflects the calls for action in the first 10-year implementation plan, which are wholly structural steps. Specifically, indicative strategies are to implement the Africa Charter on Democracy, Elections and Governance, the AU Convention on Preventing and Combatting Corruption, the UN Convention on the Prevention of Corruption and other continental /regional instruments on the elimination of impunity, nepotism and corruption.<sup>72</sup> As of June 2017, 37 of the 55 African

countries had ratified the AU Convention on Preventing and Combatting Corruption,<sup>73</sup> only two countries short of the 70% Agenda 2063 target.<sup>74</sup> However, as a recent UN Development Programme (UNDP) regional meeting concluded, 'Africa is not short of normative tools to eradicate corruption. Nevertheless, corruption seems to be on the increase – eating up available resources for development – for improving lives and well-being of the majority of Africans.'<sup>75</sup>

It appears that the failure to prioritise good governance and anti-corruption measures in Agenda 2063 has translated into a significant implementation gap. Although each state party is required to report to the AU Executive Council on a regular basis on the progress made in complying with the provisions, the AU Convention lacks the funds to fully implement its monitoring instruments. Moreover, the AU Convention establishes no sanctions on member states.<sup>76</sup> Accordingly, Rwanda is the only African state to have demonstrated positive progress against anti-corruption indicators in the last three years.<sup>77</sup>

In turn, despite this cross-cutting threat to development aims, implementation efforts driven by African actors tend to neglect the area of rule of law, specifically corruption. As discussed in greater detail below, this has direct implications for the effectiveness of interventions directed at other impact areas, in particular, economic stimulus.

### **People and prosperity: the crime-development paradox**

The development community continually draws a relatively linear relationship between poverty alleviation and the quality of human lives. It is implicit in the way that the core aspect of 'people' is defined in the SDGs: 'We are determined to end poverty and hunger, in all their forms and dimensions...' <sup>78</sup> As a consequence of this assumption, development interventions tend to be largely focused on economic stimuli, and the doctrines of people and prosperity become closely intertwined, as indeed they have again been characterised in Agenda 2063.

It is even more curious, therefore, that organised crime features in such a restricted way within the development

debate. The reality is that in the contemporary global context, the role of organised crime and the illicit economy has become remarkably complex and nuanced, particularly when viewed from the perspective of communities, rather than the state.

The illicit economy is burgeoning: estimates set its value between 2.3 – 5.5% of global gross domestic product (GDP), and rising

The illicit economy is burgeoning: estimates set its value between 2.3 – 5.5% of global gross domestic product (GDP), and rising. Putting a numeric value on the midpoint of this range places it around US\$3 trillion: an amount roughly equivalent to the combined output of the African continent.<sup>79</sup> Is it any wonder then that financial activity of this magnitude and nature would have an impact on the shape of economic and social development, on prosperity and people?

Further, the licit and illicit economies are no longer – if they ever were – two distinct entities, but are often one and the same thing. Illicit enterprises provide livelihoods and status, and determine access to land and markets. Criminal syndicates capture public contracts; and the proceeds of crime buys public office – sometimes even with enormous transparency. Further, poor communities protect criminals from prosecution, as criminal groups provide both stability and protection.<sup>80</sup> In many contexts, and often in the realm of the most vulnerable in society, the illicit economy and criminal groups are a more tangible and meaningful part of peoples' lives than the state itself. In addition, involvement in the illicit economy provides greater opportunities and no greater risks than legitimate enterprise.

Navigating with sensitivity the question of life chances, risk and return is a complex challenge in the African context. It strikes at the core of debates around what

development means, how and for whom it is defined, and what is an acceptable or optimal development trajectory. The SDGs and Agenda 2063 present 'aspirations', 'goals' and 'targets'. They are something to aim for, but in contexts that are complex and where the baseline of peoples' experiences is one of inherent, multivariate vulnerability, individuals make pragmatic calculations to maximise their own opportunities. There are a number of examples where viewing organised crime through the lens of human experience, in particular the African experience, the 'people and prosperity' doctrine demands that development actors ask themselves difficult questions. Such questions include, for example, considering whether eradicating criminal markets as stated in an SDG target, could cause greater harm than good, restrict peoples' access to development, and reduce their agency and right to self-determination.

A previous ENACT paper identified a set of aspirational illicit markets, shaped by the desire of people to achieve a better life. These markets are, in some cases, barely criminalised or stigmatised and the greatest risks and costs are arguably borne by the individual engaged in the market, with minimal impact on broader society.<sup>81</sup> At times, employment in an illicit industry is a lucrative and prestigious opportunity, in others it is the only viable economy available, and entire communities might be orientated around facilitating or protecting the trade. There are numerous examples, including in the domain of the environment and natural resources, which are discussed in the next section.

Key cities in the northern reaches of the Sahel and Sahara: Kidal, Gao, Tamanrasset, Dirkou, Al Kufra, are underpinned by the profits from various cross-border illicit trades, from drug trafficking, arms and people smuggling, to the untaxed transit of subsidised commodities, illicit cigarettes and white goods. According to members of those communities, these are the *modes de vie* – the ways of life, for which there are no real alternatives, and minimal distinction is drawn between the different illicit commodities. They observed that trafficking created livelihoods and wealth, not only for the people involved in the industries, but also for the community as a whole, and those profits are considered

by the community to be a sign of success, not a crime.<sup>82</sup> Young men involved in the cybercrime economy in West Africa express similar sentiments.<sup>83</sup>

A study of communities skirting Kruger National Park in Southern Africa suggested that engaging in and supporting the poaching economy was a way to provide for their families, and achieve social and economic upward mobility. One kingpin quoted in that study stated flatly, 'We are using rhino horn to free ourselves.'<sup>84</sup> (The prosperity doctrine of the SDGs states that 'we are determined to ensure that all human beings can enjoy prosperous and fulfilling lives ... in harmony with nature'). Community poachers and kingpins also noted the irony of the state and international community dedicated to the protection of national parks and key species so that these could be enjoyed by rich, white, foreign tourists, whereas the inhabitants of those lands were left to live in poverty. While tourism is promoted as a means to lift the national economy, the people living on the park's perimeter have seen little evidence of the dividends.<sup>85</sup>

While there is no doubt that employment in an illicit industry, irregular migration or exploitative labour practices are less than optimal from a development or human rights perspective, one of the greatest challenges in trying to counter them in the African context is how few viable and sustainable alternatives there are, that present equal or even remotely comparable returns. For the individuals concerned, these are sane and rational choices given the options available to them in their lifetimes.

For the African states in question, there is also little rationale or incentives to close down, restrict or criminalise those industries at the behest of the international community, when there are few positive alternatives to put in place. In fact, there are risks. Under pressure from the Europeans to curb human smuggling in Agadez, a key hub for the trade in Niger, the Nigerien government not only placed the impoverished communities of Agadez under financial strain, but also put itself at risk of exacerbating separatist tensions in the country and diverting those involved in the smuggling economy into other, potentially more damaging enterprises.<sup>86</sup>

Thus, while countering forms of organised crime is prominent in certain aspects of the SDGs, it is worth questioning to what extent their objectives and how they are stated actually run congruent with the drive for the development of people or prosperity in Africa. Would people's interests be better served with a focus on building safeguards and resilience, rather than states needlessly criminalising culturally accepted practices that provide viable livelihoods? Perhaps the advocacy of the international community may be better directed at encouraging governments to maximise and direct national revenues to the communities where they are most greatly needed, rather than to the ratification of yet another convention or protocol that will see minimal progress in implementation.

### **Smuggled migration and child labour: an illustration of the crime/development paradox**

Mobility has long been part of the resilience strategy in human development: for survival, for solutions to economic or social problems, to innovate, to invent and to elevate. Yet the SDGs are oblique about the connection between migration and development. The framework recognises the economic value of migrants (further evidence of the tendency to view development primarily through an economic lens), expressly considering migrant workers in SDG 8 and a reduction in the transaction costs of remittances in SDG 10. Target 10.7 calls for the facilitation of 'safe, regular and responsible migration', but the actual potential of migration as a development strategy is not systematically explored.<sup>87</sup>

Migration offers significant benefits to individual migrants, their families and communities especially around the potential to earn income. Even the lowest skilled migrants working sporadically in the informal economies of OECD member countries could earn exponentially more than they would at home.<sup>88</sup> The unemployment rate among sub-Saharan immigrants to the OECD is the highest of all immigrant populations. Nonetheless, more than 80% will find work. Positive integration and achievement of standards enjoyed by native-born populations may take generations – but evidence from a 2015 OECD study suggested that it

might only be three generations, or fewer than 50 years. Even at the lowest income and skills level, therefore, the trajectory is positive in terms of migrants' human development.<sup>89</sup> Migration is fundamentally a quest for development, with those seeking to take migration journeys acting upon aspirations for a more humane and better life.<sup>90</sup>

World Bank data suggests that remittances are, in fact, one of the only external flows that are rising

In that quest, humans have always sought, required and benefited from the assistance and services of people knowledgeable about places or routes, geography and languages, to reach new or hard to access destinations. However, migration in Africa is increasingly characterised by a policy environment where legal channels for migration are being curtailed, and development assistance is being used to restrict mobility.<sup>91</sup> This has prompted greater reliance on smugglers to bridge the gap between aspirations and legal options, and human smuggling is consequently becoming a larger, more active and more profitable industry.

The remittances sent back by migrants to their home states contribute significantly to the home state's economy, both formal and informal. Recent World Bank data (see figure below) suggests that remittances are, in fact, one of the only external flows that are rising. This means that there are few incentives for African governments to engage in controlling migration flows, when in fact those contribute so meaningfully to economic development. It is notable, thus, that Ethiopia is also the only sub-Saharan African country to have ratified International Labour Organisation (ILO) Convention No. 181 on Private Employment Agencies.<sup>92</sup> These agencies are arguably one of the most important conduits through which irregular migration is facilitated on the continent. Similarly, only three African countries

(Libya, Egypt and Niger) have dedicated legislation to criminalise the smuggling of migrants as a serious crime, and in each case the initiative was prompted by pressure from European partners as part of an effort to control irregular migration.

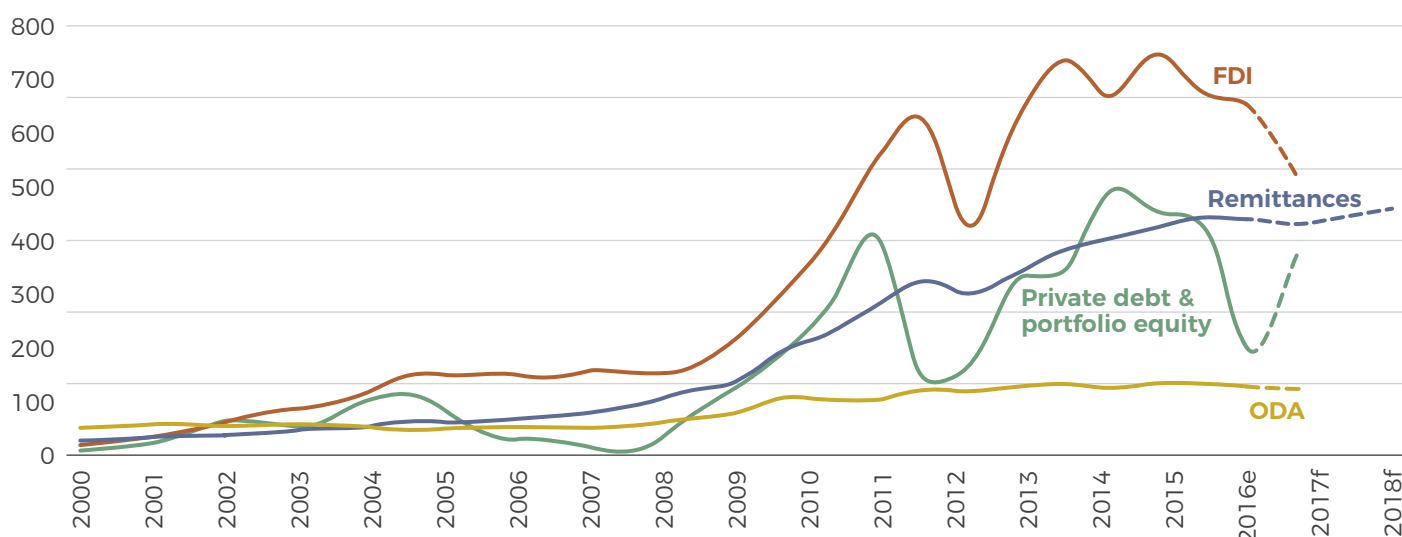
The implementation of these policies has not always worked in the best interests of those they are nominally trying to protect. In response to the increased restrictions and border controls imposed to reduce irregular migrations, smugglers have also become more professional, corrupt and brutal.<sup>93</sup> Violent and sexual abuse of migrants, labour exploitation, extortion and abuse are increasingly becoming a defining feature of the smuggling market in Africa, prompting growing emphasis on the 'nexus' between migration, human smuggling and trafficking, and particularly to respond swiftly and with force to human trafficking.

For example, structurally, African action on the issue of child labour has been quite strong. All African countries have ratified the UN Convention on the Rights of the Child and nearly all have ratified the African Charter on the Rights and Welfare of the Child. Relatedly, under pressure from international interests,

African governments have significantly scaled up their anti-human trafficking efforts. The majority of African countries are aligned with the international legal norms, having ratified the ILO Forced Labour Convention (No. 29), the Abolition of Forced Labour Convention (No. 105), the Slavery Conventions and the Palermo Protocol. They also have their own domestic legislative frameworks concerning these crimes.<sup>94</sup> Ratification of the child labour conventions is also nearly universal and many have formulated national action plans on child labour and human trafficking.<sup>95</sup>

Again, however, it is questionable to what extent interventions are assisting or protecting those they are designed to safeguard. According to a report by the ILO and Alliance 8.7 the number of children in child labour and hazardous work has increased in sub-Saharan Africa between 2012 and 2016, despite the numerous policies implemented by African governments targeting child labour.<sup>96</sup> In addition, policies may have adverse effects. In 2006, for example, Benin, in order to show action under the newly adopted UN Transnational Organised Crime Protocol (UNTOC), decided to criminalise child 'trafficking', defining as trafficking all children who were sent overseas to work. In partnership with a UN agency,

**Figure 3: Projected external flows (\$ billion)**



Source: World Bank (2017), "Migration and Development Brief 27: April 2017", Migration and Remittances Team, World Bank, Washington, DC.

it was estimated that there were 40 000 victims of child trafficking. Subsequent follow-up work, however, showed that 38 000 had migrated voluntarily and with the support of their families under a long established fostering scheme.

More importantly, the closure of a previously legitimate opportunity to send children overseas for employment not only increased the vulnerability of the families dependent on their income, but also of the children themselves, whose found themselves even more vulnerable in a newly clandestine industry.<sup>97</sup>

The fixation with child labour, and related trafficking – instead of designing policies to protect the rights and conditions of child workers – has mostly failed to be in the best interests of the country or communities affected.<sup>98</sup> Thus, it is perhaps unsurprising that while legislative structures may be in place, African countries' efforts to operationalise legal norms vary, with many considered largely inadequate,<sup>99</sup> and the genuine commitment to address these issues is debatable.

## **Planet: Africa's paradox of plenty**

Given the emphasis placed on natural resources for Africa's growth, prosperity and development, environmental sustainability is a curious schism between the SDGs and Agenda 2063. For goals and targets on land and at sea, the SDGs focus on protecting the environment and ensuring sustainability. By contrast, Agenda 2063 focuses far more intensively on ensuring African ownership of resources and on moving African corporations higher up the manufacturing supply chain.<sup>100</sup> Importantly, it reflects the fact that while African governments certainly bear the responsibility for failing to put in place structural economic policies that would redistribute wealth, most of the value of Africa's resources is being realised outside of the continent and by foreign investors, foreign governments and a spectrum of corporate and criminal syndicates.<sup>101</sup>

The evolution and trajectory of the illicit economy plays an interesting role in explaining this dichotomy.

In the phenomenon that *Financial Times* journalist, Tom Burgis, describes as 'the looting machine',

Africa's resource-rich, newly independent states entered into contracts with foreign multinationals, often through questionable 'brokers' of the illicit economy, to license the exploitation of their mineral wealth, frequently at unfavourable rates, in return for various forms of support. These came in the form of international legitimacy, access to foreign markets, substantial kickbacks squirrelled into foreign accounts or international secrecy jurisdictions and, in some notorious cases, for access to arms or the means to bypass international sanctions.<sup>102</sup>

This form of corruption and complicity is not always understood or described as organised crime, in particular because of the way that it is apparently state sanctioned.<sup>103</sup> But there is little dispute that it creates a culture of impunity, erodes good governance, and diverts enormous amounts of value out of the national economy, putting it out of reach of possible development investment. Furthermore, as global efforts and advocacy for better natural resource governance increase, so the actors involved in illicitly extracting its value are increasingly resembling organised crime syndicates with only a thin veiling of corporate respectability. As such, this is an illicit flow that holds immense relevance for the development debate.

To borrow an apt quote from the logging sector that applies equally effectively to other commodities:

Like all successful businesspeople, savvy heads of predatory states cultivate a complex network of contacts with specialized local, regional, and international fixers who procure finance and launder money, transport illicit products and weapons, falsify passports and legal documents, and set up shell companies necessary to access international markets for illicit timber and weapons. These networks, which span borders and even political and ethnic or religious divides, foster organised crime, protection rackets, and trafficking of other commodities, which leads to other forms of protracted violence. In addition, the revenues from corruption and illegal logging encourages money laundering and other financial crime, which in turn facilitate other forms of organised crime and conflict financing.<sup>104</sup>

Over the course of decades, Africa's resource-driven growth has resulted in positive economic indicators, but has fallen short of transforming these into similarly positive results on indicators of positive human development. Some of the countries on the continent with the greatest wealth of natural resource riches have shown the widest divergence between income and human development.

According to the Africa Progress Panel:

The apparent disconnect between income and human development in resource-rich countries points to underlying failures in public policy. Successive [African] governments have failed to put in place the mechanisms needed to transform resource wealth into expanded opportunities for the poor.<sup>105</sup>

The reason for this discrepancy is largely related to governance. The African context has long served as the case study for the 'paradox of plenty', or the resource curse, whereby natural resource-rich countries fail to realise development benefits commensurate to the scale of their resource wealth. Without a relationship to their tax base, and thus their citizens, resource-rich states have proven more prone to conflict and authoritarianism.<sup>106</sup> Globally, natural resource wealth is strongly associated with undemocratic and illegitimate governance – approximately 70% of the world's resource rich states are categorised as autocracies. While elites fight to capture and concentrate resource wealth for themselves, the poor simply become poorer, either through abject marginalisation or through the erosion that results from protracted national conflict. Recent data and analysis have shown a clear bifurcation of inequality trends in Africa: those economies characterised by a dominant oil and mining sector recorded an accelerating inequality rise not seen in those without similar riches.<sup>107</sup>

There are many reasons to be concerned about structural and rising inequality over generations, of the kind that has characterised many African countries since independence. It systematically locks the poor and marginalised groups out of access to assets, education and opportunities, and has proven a trigger

for internal and sub-regional conflicts, including the rise of terrorism.<sup>108</sup>

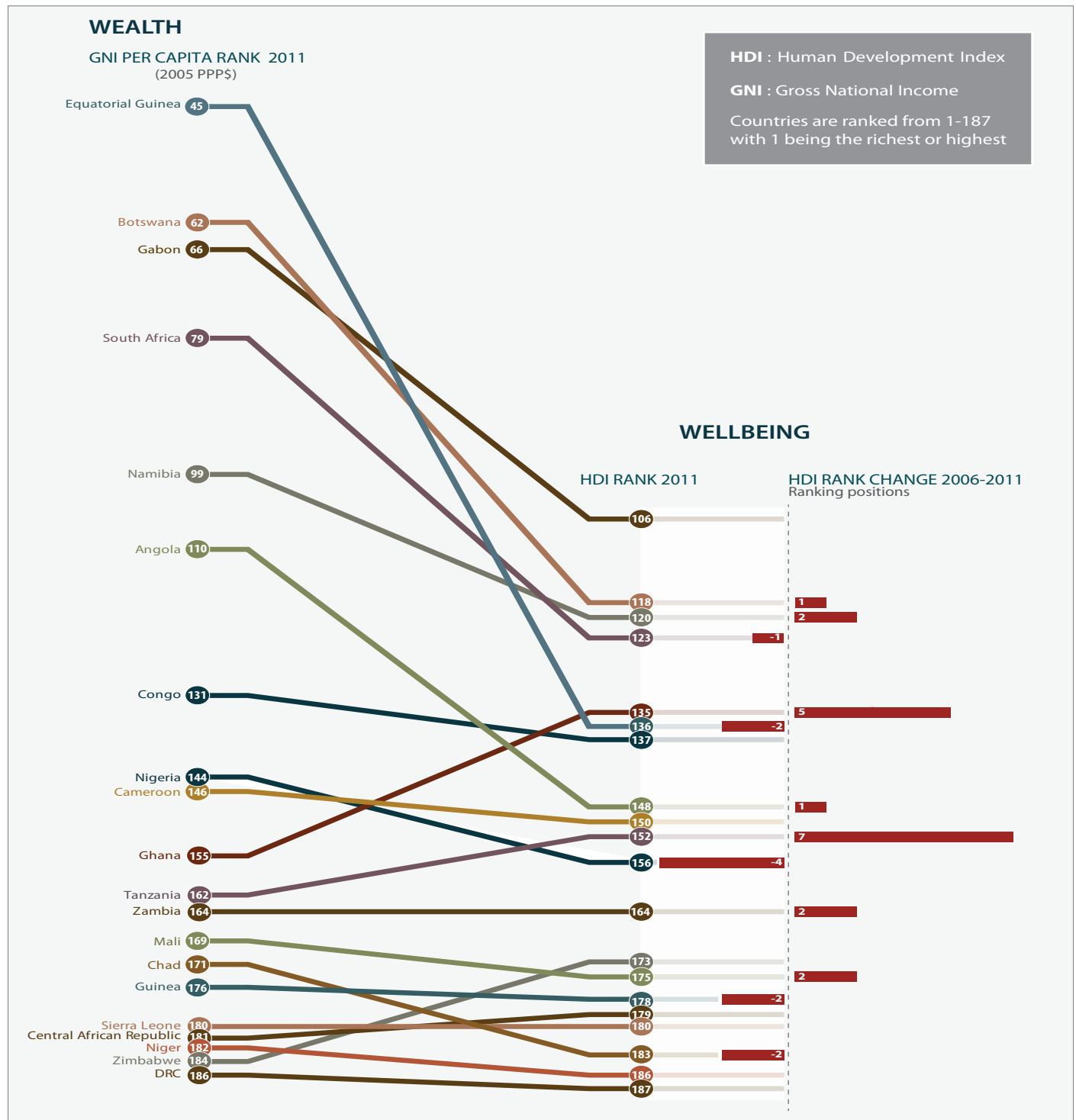
Interestingly, this highlights another divergence between the SDGs and Agenda 2063. In the African agenda, the spirit of SDG 10, to 'reduce inequality within and between countries', is only marginally covered.<sup>109</sup>

The so-called resource curse is not restricted to the energy and extractives sector, although much of the regulatory focus has been concentrated in this area. It is equally relevant to the continent's flora and fauna, whose sustainability is gravely under threat from illicit practices. The protection of forests, other flora and fauna has taken a poor second place to the efforts to monitor, regulate, and improve the transparency in the mining and minerals sectors. Nominally considered 'renewable' resources, the failure to prioritise and accelerate international measures to protect Africa's forests and fish stocks has pushed the continent almost to the tipping point for sustainability – the point at which the reproduction rate can no longer sustain the levels of poaching, pillaging or industrial-scale clearance.

There is a need for a global response, a reality reflected in SDG guidance 15.C: 'Enhance global support for efforts to combat poaching and trafficking of protected species, including by increasing the capacity of local communities to pursue sustainable livelihood opportunities.'<sup>110</sup> This includes identifying the roles and responsibilities of both international and national actors along criminal supply chains. Most of the natural resources taken illicitly from Africa – both renewable and non-renewable – end up in foreign markets in Europe, Asia or North America.

Destination governments therefore should shoulder equal responsibility to proactively address demand, strengthen their supply chain integrity and capacity for monitoring, to close loopholes in financial and legal regulations that allow the profits of illicit flows to move through the system, and cooperate transnationally to investigate the criminal networks connecting with local actors. Efforts in the source countries, while critically important, tend to a militarisation that can be counterproductive and has only shown only limited efficacy as a long-term sustainable response.<sup>111</sup>

**Figure 4: Wealth/wellbeing gap in Africa**



Source: UNDP (2011), Human Development Report.

Overall, careful consideration is required not just of environmental crimes' development impacts, but also of how the response to these crimes are crafted. This necessitates sensitivity to domestic optics and a consideration of the development implications for those whose livelihoods have come to depend on illicit (or informal) access to natural resources. Given the higher-level complicity around resource concessions, responses also need to consider what vested interests will be disrupted. Civil society advocates working to protect the continent's resources are increasingly under threat, as organised criminal involvement in pillaging environmental resources for profit has raised levels of violence.<sup>112</sup>

### **Mining and mineral resource crimes**

Africa's petroleum, gas and mineral resources exemplify how elites, political interests, unethical business and crime converge to enable illicit resource streams. While these resources have become a magnet for foreign investment, there is a clear culpability here in the extent to which international legal and institutional frameworks for dealing with corruption and exploitation in the extractive industries by multinational corporations have proven deficient. International actors, including those that should have played a monitoring or regulating role, have failed to act ethically or professionally.

The international financial system allows for the easy diversion of funds through secrecy regimes and lack transparent beneficial ownership regulations, are also culpable.<sup>113</sup> There seems to be a paucity of political will to make the necessary changes to the international financial system or oversight mechanisms, to ensure that corporations are held under sufficiently stringent requirements to conclude ethical contracts, discourage corruption and prevent illicit flows.

A growing number of measures have been put in place to regulate and improve transparency, under international oversight and stewardship. The ongoing work of the Extractive Industries Transparency Initiative (EITI), 'Publish What You Pay', and major efforts from non-governmental organisations such as Oxfam, Transparency International, Global Witness and the Natural Resource Governance Institute, are highlighting

the importance of financial reporting for mining. While mining performed well in anti-corruption programmes and organisational structure, its performance in the third category (country-by-country reporting) was still poor. A 2014 report showed that country-by-country reporting was still holding the mining industry back.<sup>114</sup> International efforts to increase transparency in resource wealth and contracts have had mixed success, undermined by high-levels of corruption.<sup>115</sup>

Artisanal and small-scale mining (ASM) is positioned alongside the formal sector across Africa, and is estimated to contribute at least 30% of the continent's output and provides livelihoods for tens of millions of people. Artisanal gold mining, for example, occurs in approximately three-quarters of African countries, and employs some of the world's most vulnerable people: the poor, former combatants, child labourers and orphans, the displaced, refugees and economic migrants. While ASM is typically considered to form part of the informal economy rather than the illicit one, there are extensive vulnerabilities inherent in the enterprise given the value of the commodities and the lack of monitoring and oversight given to the sector.<sup>116</sup>

In recent years, concern has grown that artisanal and small-scale mining sites are being 'captured' by foreign syndicates

There are numerous linkages between organised crime, ASM and developmental harms. Firstly, the funds generated from ASM are unregulated, and thus are largely diverted away from government taxation and unavailable for development objectives. ASM profits have also been documented as having enriched armed and criminal groups. There are interlinkages between artisanal gold mining in Niger and Chad and the human smuggling industry, for example;<sup>117</sup> and in the DRC, Liberia, Sierra Leone and Côte d'Ivoire mining profits have been controlled by armed groups.<sup>118</sup>

In recent years, concern has grown that ASM sites are being 'captured' by foreign syndicates that take control of the previously independent national miners and invest in semi-industrialising. This practice has not only worsened labour standards for miners, but is also degrading the environment at an astonishing rate. In addition, the increasing involvement of foreign nationals at various sites has reportedly contributed to violence, higher crime rates, human rights abuses and higher instances of human trafficking.<sup>119</sup>

Illicit mining and other practices of extractives diversion have serious cross-border implications. The extensive Nigerian oil theft problem, for example, is impacting on neighbouring countries. In Benin, for example, a UN assessment mission found that smuggled fuel represented some 80% of all of the petroleum sold in the country. This has led to the closure of many legal petrol stations unable to compete with the cross-border illicit flows.<sup>120</sup> The failure to bring order and transparency to the petrochemical industry in Nigeria is dampening enthusiasm for further oil exploration and development in the region. Both Ghana and Mauritania have proven oil reserves that are under development, but unless controls of the regional market in petroleum products can be reinforced, these fuel diversions will serve as a significant disincentive for investment and damage an opportunity for other littoral states to benefit from these resources.<sup>121</sup>

## Flora and fauna crimes

As a previous ENACT continental report has observed, illicit logging and illicit fishing are occurring on the continent on a massive scale. As with the extractives industry, this is enabled by a complex intersection of corruption and collusion in the contracting and permitting processes; a crossover between legal and illegal commercial outfits, often that have privileged relationships with central and local authorities, and some local low-level engagement at the front-facing part of the industry to harvest or fish. The result is the rampant pillaging of Africa's flora and fauna, far beyond ecologically sustainable levels, the undercutting of legitimate local livelihoods by illicit industry, and a massive loss in possible revenues for states and their people.<sup>122</sup>

The AU is currently making an effort to integrate wildlife and forest conservation into Agenda 2063, but its previous absence highlights key assumptions made about the role of forestry in Africa's economic growth plan. In Africa's post-conflict period, the timber industry was seen as an effective way to jump-start economies, and to meet the immense demands tied to reconstruction and (re)employment for poverty alleviation. Ultimately, however, these demands worked concomitantly to compound pressures on forest ecosystems, stripping long-term livelihood options. Large industrial concessions were offered at the cost of individual small-holdings, again allowing the use of these concessions to be used to bestow political favour and reinforce elite clientalism, while reducing local communities' access to forests.<sup>123</sup>

IUU fishing is arguably a critical obstacle to achieving a number of other development goals in Africa. Fishing is one of the continent's largest employers. IUU fishing may lead to a reduction of human food sources owing to a scarcity of fish, hindering the achievement of Goal 2 (ending hunger and achieving food security). The fishing industry has been extensively linked to other serious organised crime activities, in particular human trafficking. As such, IUU fishing also directly threatens the achievement of Target 8.7 which aims to eradicate forced labour and human trafficking. The SDG indicators for measurement include the 'progress by countries in the degree of implementation of international instruments aiming to combat illegal, unreported and unregulated fishing'.<sup>124</sup>

Both the SDGs and Agenda 2063 contain language relating to IUU fishing, but similar discrepancies are found here as with the natural resources and extractive industries. The SDGs and African priorities differ in that the SDGs focus on the health of the ocean and its biodiversity, and the implementation of international law (targets 14.4 and 14.6), whilst for Africa the priority and actions are to gain effective control over the geographical space and physical fish resources. Aspiration 1, Goal 6 of Agenda 2063 broadly refers to the blue/ocean economy and the resources for shipping, mineral exploration at sea and fishing.<sup>125</sup> However, while the Agenda 2063 implementation plan references the

need to address illegal fishing, this is minimal compared to other measures.<sup>126</sup>

IUU fishing is emphasised to a greater degree in the SDGs, but does not reflect Africa's urgent need for increased capacity to combat the crime, given the threat it poses to key marine environments. While a range of activities are ongoing, including major initiatives to combat IUU fishing in Africa such as the Fish-i Africa and the West Africa Task Force (WATF), they fail to address some of the structural frameworks that allow the practice to continue. For example, a noted trend among fishing vessels engaged in criminal activities is that they are often registered in states that are unable or unwilling to exercise their criminal enforcement jurisdiction or that allow fishing vessel owners to remain anonymous through the registration of, for instance, shell companies as owners on the ship register. The UN Convention on the Law of the Sea (UNCLOS) has wide jurisdiction as a customary international law applicable to all states. However, implementation arrangements for high seas fisheries, such as the Straddling Stocks Agreement, which deals with highly migratory species in international waters, remain limited to a ratification basis.<sup>127</sup>

The SDGs and Agenda 2063 also diverge in their approach to wildlife crime. SDG 15 explicitly targets wildlife crime, calling for 'urgent action to end poaching and trafficking of protected species of flora and fauna and address both demand and supply of illegal wildlife products'.<sup>128</sup> With regard to African action, Agenda 2063 makes an aspirational statement on the long-term stewardship of its environment and ecosystems, 'including its wildlife and wild lands to be healthy, valued and protected'.<sup>129</sup> The implicit connection is to the capacity of Africa to monetise its biodiversity through tourism, which is being heavily promoted as another sector that might drive the continent's development.<sup>130</sup>

While the SDGs explicitly recognise wildlife crime as a threat to development, African development frameworks are less committal. The international commercial trade in any parts of elephants and rhinos is prohibited almost universally, but enforcement of these restrictions

remains weak. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) aims to ensure that international trade in wildlife and plants does not lead to their extinction and operates as a key legal instrument.<sup>131</sup> The AU Convention on Conservation of Nature and Natural Resources (the Maputo Convention 2003) is the overarching African law in respect to sustainable use of the environment and flora and fauna.<sup>132</sup> Its objectives are more specific including, tight control 'of traffic in trophies, in order to prevent trade in illegally killed and illegally obtained trophies and prohibit[ing] the use of poisons, explosives and automatic weapons in hunting'.<sup>133</sup>

The implementation of protection measures for wildlife have often fallen behind other critical domestic challenges. And perhaps rightly so

While African governments have paid lip service to the protection of wildlife species in response to international pressure, the implementation of protection measures for wildlife have often fallen behind other critical domestic challenges, including enhancing the safety, security and access to development of vulnerable populations. And perhaps rightly so. For example, South Africa is under enormous international pressure as the last major front in the 'war' to protect the rhino, with poaching having escalated dramatically in the last five years and the white rhino on the brink of extinction.<sup>134</sup> The government has had to balance carefully the political and financial resources dedicated to responding to what is often seen as an externally imposed priority.

Though the political rhetoric, particularly in forums such as CITES, is forceful on the part of the South African government, in fact only 1% of the total government budget is dedicated to environmental issues, and only 5% of the 1% is dedicated to the country's national

parks. The bulk of South Africa's budget and political attention goes to addressing rising security challenges within the country.<sup>135</sup>

Moreover, similar to the way in which the criminalisation of drug use has been perceived, a fight against poaching can appear to be a challenge to the rights of communities living in the surrounds of national parks to access natural resources that they have used culturally or for subsistence for generations.<sup>136</sup> Furthermore, the militarisation of environmental protection – a step taken to send clear messages to international actors that action is being taken – can appear domestically like a war on the poor. Small-scale poachers lose their lives and communities lose their livelihoods, but the international syndicates that traffic the goods to international markets are rarely investigated or successfully prosecuted.<sup>137</sup>

## CHAPTER 3

### Implementing a development agenda and closing the 'space between'

Organised crime poses manifold threats to development: challenging the ability of the continent to achieve the SDGs and realise its aspirations for people, prosperity and planet. Evidence has also shown that there are as many ways in which responses to organised crime may exacerbate existing challenges or create new ones, particularly as they relate to SDG 16 and aspirations for peace.

The implementation of development frameworks in Africa has focused heavily on economic stimulus, with investment in large-scale infrastructure, technology and social service delivery projects. For example, most of the Agenda 2063 flagship projects focus on transport and information and communications technology infrastructure and economic growth, indicating a drive for accelerated growth and economic structural transformation.<sup>138</sup> Yet with economic growth and enhanced geopolitical, trade and infrastructural engagement with a globalised economy come ever greater risks that organised crime will poison the very sinews of African development.

The last of the SDG principles is 'partnership', but these partnerships and the way in which development frameworks for Africa are implemented also hold implications for the scope and scale of organised crime on the continent.

The extent to which African countries benefit from FDI depends on whether they are able to capture the productivity-enhancing knowledge and technology spillovers, rather than just seeing resources removed from the continent. Sub-Saharan Africa's experience in achieving FDI spillovers has mostly been disappointing: linkages between foreign investors and local economies – especially through supply chains – remain limited, and the higher value aspects of the supply chain are realised elsewhere.<sup>139</sup>

As ODA will not fully finance SDG achievement, the onus rests on national implementation and a shared approach to raising resources – as indicated by SDG 17. Africa traditionally has low domestic tax collection rates, and thus raising revenue for SDG achievement means that FDI, private sector investment and public-private partnerships will need to contribute. There has been an emphasis on blending ODA with private capital flows, including private investments and loans, to reduce poverty more efficiently.<sup>140</sup> For example, the New Partnership for Africa's Development (the executing agency of Agenda 2063), in conjunction with the African Development Bank (AfdB) and the UN Economic Commission for Africa (UNECA), emphasises the participation of the private sector, as well as civil society organisations and the African Diaspora, in fostering development on the continent.<sup>141</sup> For large-scale infrastructure, 'governments encourage all stakeholders to foster and develop bankable and implementable infrastructure projects'.<sup>142</sup> But a simple substitution of private resources with public funds may not be the best way to characterise African options.

The challenge with this approach, as the systematic analysis in this paper has suggested, is the risk that any further investments, regardless of the source, will play into the existing paradigm by which elites establish contracts that favour their own interests rather than the development objectives of the citizenry. This includes

corporations of questionable legitimacy that have gained a privileged position among those elites to access resources or lucrative contracts. Without proper oversight, resources will continue to be siphoned away from development, rather than towards it.

This is the 'space between' the development goals for which both international and African actors will have to account.

The considerable sway certain political actors have over the allocation of funds can lead to the formation of illicit relationships, financially benefitting both these political actors and organised crime groups. In such contexts, even if states successfully secure revenues, the risk of mismanagement of funds is high.<sup>143</sup> However, despite the risk of organised crime interventions, private funding and large-scale infrastructure and economic stimulus projects appear to be going ahead with minimal safeguards in place. For example, while the African Power Vision identifies a number of risks, corruption and criminal capture are not on this list.<sup>144</sup>

## Corrupt practices have resulted in roads and bridges that go nowhere and ghost schools and hospitals

Government contracts – public procurement – have long been a prime target of organised crime owing to the considerable profits to be made. The capture of state contracts by organised crime groups can affect entire public works programmes, reducing benefits for communities. Corrupt practices have resulted in roads and bridges that go nowhere and ghost schools and hospitals, and have denied citizens access to basic services such as clean water and sanitation.<sup>145</sup>

The capture of funds and the undue influence of organised crime groups over development interventions have negative consequences for the immediate intervention, as well as larger ramifications for

government legitimacy and wider development efforts. Anti-corruption measures are essential to prevent the unethical awarding of lucrative government contracts to criminal networks, while strong accountability and transparency mechanisms are needed to prevent criminal capture of privatised public services.

SDG 16 – and the entire SDG agenda – embraces the core elements of a social contract between state and society, as it seeks to ensure a match between people's expectations of what the state and other actors will deliver and the institutional capacity and inclusive political processes available within the state and other actors to meet those expectations.<sup>146</sup> When organised crime infiltrates development implementation, such promises are undermined.

Whatever the form, organised crime destroys state legitimacy as it undermines its service delivery. Departments and institutions colluding with organised crime:

...set out on the slippery slope that leads to ineffectiveness and the loss of public trust in state institutions. Not only does it lead to the criminalisation of state departments, but public service delivery slows down, affecting the health, education, and development of the population as a whole.<sup>147</sup>

Organised crime undercuts the legitimacy of political leaders in a context where resource distribution is already highly unequal and public service provision falters, while private wealth accumulation increases.<sup>148</sup> To counter the influence and power exercised by organised crime groups in relation to service delivery, it is necessary, both nationally and locally, to build viable propositions of governance within all pillars of service delivery, and to provide the necessary oversight and transparency that will prevent these from being subverted by illicit interests.<sup>149</sup>

### Illicit financial flows

The way in which funds are raised to finance development will have a considerable impact on how large 'the space between' is likely to be. Traditional

donor aid and assistance is often given with a set of conditionalities for transparency and accountability measures. Emerging donors, also known as non-traditional donors, are often preferred by African states as they require less oversight. For example, Chinese foreign assistance to Africa, unlike that from OECD states, is not earmarked. As a consequence, a continental study found that the birth region of the relevant head of state could receive up to 270% more of the Chinese funds than other regions.<sup>150</sup> Clientalist politics are thus reinforced, and development assistance is diverted away from more equitable, poverty reduction goals.

According to the first 10-year implementation plan of Agenda 2063, domestic resource mobilisation should contribute at least 75–90% of its financing (on average per country). This, the plan proposes, can be generated through enhanced fiscal resource mobilisation, maximisation of natural resource rents, the leveraging of the pool of African institutional savings, and a reduction in inefficiency- and corruption-based financial leakages and waste. Importantly, it can also be achieved through curbing IFFs.<sup>151</sup>

Reducing IFFs, included in the SDGs' Target 16.4 alongside organised crime, is widely recognised as a development challenge for Africa. With annual illicit capital outflows from the continent estimated to be in the billions, the value of IFFs is thought to be more than the security budgets of some countries.<sup>152</sup>

Despite widespread agreement that IFFs thwart developmental aims, the concept of IFFs remains vague and its content controversial.<sup>153</sup> IFFs tend to be broken down into the categories of commerce (capital flight and trade mispricing), crime and corruption. The most prominent estimates of African IFFs are based on balance of payments and trade data. Yet, such measures tend to over-represent capital flight and trade mispricing, and neither of these metrics capture corruption, graft or criminal profits.<sup>154</sup> Thus, the role of crime and corruption tend to be downplayed in responses.

IFF policies focus on closing loopholes in the global financial system, placing pressure on those countries that serve as tax havens and on the corporations that practice aggressive levels of tax evasion and avoidance.

While these are important priorities, they shift the burden of culpability for the continent's achievement of its development objectives to entities off the continent. The High-Level Panel on Illicit Financial Flows from Africa report emphasised that 'IFFs are not only an African problem but are indeed a matter of global governance'.<sup>155</sup>

At the same time, however, the IFF narrative does not reflect the importance both of preventing these flows from leaving the continent and of establishing how those funds are used if they are secured. Fundamentally, corruption, graft and clientalism have a considerable role to play in the reasons why most African states have not realised development for their people. While states may be weak, institutional capacity low and society still dealing with the legacy of years of protracted and brutal conflicts, the vast majority of states are democratically elected and sovereign. The responsibility for providing and creating development opportunities for their citizens rests with the governments of those states. It is arguably time for African states to shoulder that responsibility. At the inaugural meeting of the Organization of African Unity, Ghana's first post-independence president, Kwame Nkrumah, called on his fellow African political leaders to develop strategies that would give Africans a stake in the region. 'The resources are there,' he said, 'it is for us to marshal them in the active service of our people.'<sup>156</sup>

## CHAPTER 4

### The way forward: crime-sensitive and crime-proof development

The 'integrated and indivisible' nature of the SDGs and of Agenda 2063 has created an opportunity to integrate and mainstream development responses to organised crime. However, to date the implementation of both development frameworks has largely missed this opening.

While the development impact area of 'stability, governance and justice' is an essential precursor to achieving long-term sustainable development, implementation in Africa has centred on economic stimulus and largely ignored organised crime threats.

In addition, although there are examples of responses to specific crime types that aim to build cross-cutting partnerships, such instances are limited and their impact even more so, given the impunity culture at the top and livelihood incentives at the bottom.

Significant investment (particularly by the private sector) in economic stimulus efforts, such as infrastructure projects, has increased the opportunity for organised criminal actors to infiltrate this 'space between' and profit from government and development interventions. Without sufficient oversight, transparent and balanced systems, and quality institutions, public contracts are ripe for criminal capture. This is especially the case if large-scale development investments are not matched by efforts to establish and maintain stability, transparency and good governance.

In essence, then, African states and the international community will have to respond in three ways to the challenges presented by organised crime:

- Preventing organised crime from undermining core development objectives
- Integrating development approaches into responses to organised crime
- Ensuring that development resources do not feed organised crime

None of these recommendations individually is a straightforward exercise. Collectively, they will require a far greater level of awareness and engagement on the part of the development community. They will require efforts from both African states, the corporations investing in Africa, and partners in the international community.

In short, an effective response will require not only crime-proofing development, but also making development interventions crime sensitive.

### **Crime-proofing development**

For a long time, development actors did not consider organised crime to fall within their mandate. That has firmly and conclusively changed. Organised crime is part of the SDGs; the ODA rules have changed to not

only allow but also encourage development funds to be dedicated to organised crime and illicit economy issues.

### **Fine-tune existing programming**

It can no longer be assumed that crime problems will be solved by law enforcement. In every sphere where organised crime is visible and presents a challenge, it is critical that development actors understand how it is affecting their objectives and programming. This will allow them to build the necessary tools and frameworks to identify and mitigate the impact of organised crime on development. Development assessments, whether they focus on conflict, democracy, governance, economic growth, public health or social services, now have to include organised crime analysis.

Without sufficient oversight, transparent and balanced systems, and quality institutions, public contracts are ripe for criminal capture

This includes those mandated with environmental protection, as they are obliged to understand the role of poachers, illicit fishers or loggers and how biodiversity loss can be prevented. It also includes migration agencies and first-line respondents to migrants and refugees, who need to understand the role of human smugglers and the threat of human traffickers; public health, education and human services providers, who should understand the role of organised crime groups in service delivery and criminal gangs' importance to people's sense of security; and peacebuilders, who need to plan early to address illicit flows in a post-conflict transition.

Development actors can play a central role in addressing the social impacts of organised crime. Efforts to build livelihoods, foster inclusion, reduce marginalisation, and provide social services through education and healthcare can all be fine-tuned to reach out to those

in illicit industries, to offer opportunities to connect to, extract and rehabilitate those made vulnerable by criminal groups. In some cases, minor adjustments to existing programming may be all that is needed to make a difference.

### **Expose invisible threats**

Some of the repeated challenges to responding to the development threats posed by organised crime are the extent to which local communities are involved in the trade; that it is not stigmatised as a crime domestically; or that it is a longstanding practice that has been supercharged by globalisation. It thus becomes challenging for external actors to raise it as a local priority, or to gain traction at a community level.

In contrast, a groundswell of community rejection and resistance to organised crime has proven, in multiple cases, to be the most effective and sustainable in displacing illicit industries. Examples from work with Somali communities to counter piracy are one example;<sup>157</sup> the movement by the Amizagh in Libya to stop the human smuggling trade is another.<sup>158</sup>

Development actors can help to incubate and build popular opposition to transnational threats and organised crime by revealing the invisible threats that this crime poses. This will differ from market to market, but in the case of drug trafficking in the Sahel, for example, the community was concerned about the rising levels of violence against women that came with the drug culture.<sup>159</sup> Clients of human smugglers may not be convinced by the risks of the journey, but could see the futility of taking a dangerous and expensive journey that does not yield the expected rewards.<sup>160</sup> Increasing awareness of the social, political and economic threats posed by organised crime, and building the capacity of civil society, the media and investigative journalism can all mobilise momentum for change. Initially, opposition is most likely to be found in the communities that are most affected, and efforts can then be expanded from there.

The flip side of complacent approaches to organised crime is where society and the state inappropriately censure people. This leads to penalties disproportionate to the crime, the overburdening of penitentiary systems,

few safety nets for offenders and a consequentially high risk of recidivism, as perpetrators no longer feel 'fit' for legitimate society. The most visible example of this is with drug use, but it could equally be applied to migrants (particularly those who have failed and returned), victims of trafficking (particularly sex trafficking), child combatants, poachers, illicit loggers and fishers.

However, even in instances where individuals or the community may look unfavourably on organised crime, they may see little incentive and much risk in speaking out. Activists and journalists have paid high prices for fighting organised crime or a culture of impunity that is reinforced by the state.<sup>161</sup> In cases where the community response is to mobilise, efforts have to be made to protect those with the courage to make their voices heard and to be visible sources of resistance. Certain safety nets must be put in place, such as asylum when targeted by criminals, or business or political elites; or technological solutions to protect data and information exchange or to prevent monitoring and avoid surveillance.

### **Protect political and judicial processes**

It has been repeatedly emphasised that organised crime is one of the greatest threats to political and judicial process, and one which undermines the quality of institutions and their ability to deliver on other development areas. It is also one of the major factors facilitating the complicity between crime, business and politics, which has become such an insidious feature of governance in Africa.

An extensive range of both technical and political initiatives could help to build resistance to the infiltration of political and judicial processes

There is an extensive range of both technical and political initiatives, which, if deployed in a coordinated

manner, could help to build resistance to the infiltration of political and judicial processes in Africa. Overall, there needs to be heightened awareness of organised crime as a threat to electoral systems, including through documenting cases, sharing impact stories and disseminating lessons learned and best practices relating to responses. At the local level, investments in encouraging voter participation and understanding of multi-party democratic systems need to mainstream an awareness of organised crime with voters, and the consequences to representation, and lessons from building resilience into electoral systems.

Much effort is expended by the international community to counter and monitor the threat of violence in elections. Similar efforts now need to be raised to prevent illicit finances capturing the electoral process, elections. Technical assistance for legislative drafting or elections monitoring, or supporting civil society monitoring of elections and around legislative processes for important relevant pieces of legislation would be of great value. In addition, supporting and strengthening the access of civil society, the media and relevant think tanks and academic institutions to engage in electoral and legislative processes is also important.<sup>162</sup>

### **Build, strengthen and protect civil society**

Across the spectrum of responses required to advocate for development priorities, investigate violations or subversions of development or democratic principles, protect and defend the environment, the vulnerable or the voiceless, or to hold leaders and elected officials to account, the role of civil society is critical, whether it is the role of independent media and investigative journalists, or advocacy or watchdog groups required to monitor the political and legislative process.

Civil society activism and media freedom are an important means by which to reduce the vulnerability of states to the pernicious infiltration by criminal actors and illicit flows. It builds up the robustness of free and accountable states. Africa's civil society sector is growing in activity and vibrancy year-on-year, but it requires investment and protection – both for individual activists who come under threat, but also to ensure that the sector is properly regulated and cannot be captured.

Investments in building up and professionalising civil society would pay dividends.

### **Crime-sensitive development**

Development investments can unwittingly contribute to the growth of organised crime's influence, reach or profits. There are a number of ways that this can occur: by bolstering the power of those actively involved or complicit in organised crime; by de-incentivising or weakening opposition to organised crime and by facilitating the movement of illicit commodities or their profits.<sup>163</sup> In the short-term, development actors must begin to systematically consider how they prevent their programmes from falling into these traps. Being crime sensitive means explicitly considering the risks of supporting or facilitating organised crime and engaging actively in mitigation strategies to prevent it. In the long-term, greater effort is needed to mainstream organised crime into development responses. For example, the approach of 'Pathfinders for Peaceful, Just and Inclusive Societies' (Pathfinders)<sup>164</sup> can identify relevant organised crime threats, across pertinent SDG targets, and raise awareness and develop effective responses as part of larger, cross-sectoral implementation projects.<sup>165</sup>

### **Mainstream political economy analysis**

Repeated analyses across Africa have concluded that there is complex and unhealthy relationship between crime, business and politics.<sup>166</sup> This damaging triumvirate has blurred the lines between the legitimate and illegitimate, making it harder to understand the impact that interventions and resources may have. Political economy analysis can assist in untangling and responding to the threat.

Political economy analysis is concerned with the interaction of political and economic processes in a society: the distribution of power and wealth between different groups and individuals, and the processes that create, sustain and transform these relationships over time. The definition draws attention to politics, understood in terms of contestation and bargaining between interest groups with competing claims over rights and resources. It is equally concerned with the economic processes that generate wealth and that

influence how political choices are made. Because these two dynamics are analysed together, it offers great insights into how criminal actors and illicit flows affect the legitimate political economy. In essence it examines the incentives, influence and interests of various stakeholders to better understand the context for programming.<sup>167</sup>

In doing these exercises, it is critical to lower the level of analysis down to specific communities. For criminal activities, control is a very local phenomenon, yet most organised crime analysis, including the eponymous 'threat assessments' that are published usually work country-wide, with minimal sub-regional specifications. Furthermore, they have a tendency to stop and start along official borders and boundaries, rather than seeing a wider set of linkages across borders and between commodities and communities. This restricts a deeper understanding of the informal and illicit economy, and the actors that influence it.

The political economy analysis that needs to predicate programming can take a variety of forms. From regional analysis, to sectoral analysis, to problem or commodity driven analysis, and the most appropriate form or model will depend on the programming objectives.

For interventions directly targeting organised crime itself, it is also recommended that the political economy analysis be supplemented with a market analysis, which would focus on the shape and dynamics of the critical market, to identify entry points and levers for change.<sup>168</sup> Furthermore, in the monitoring and evaluation stage, subsequent mapping of efforts to counter organised crime would be a significant step forward in understanding how markets are adapting to the intervention. In particular, more investment would be beneficial in understanding the impacts of liberalising, formalising or prohibiting informal or illicit markets.<sup>169</sup>

### Foster accountable governance

In many African countries, a lack of accountable governance (which includes the corporate sector) will be the reason why development may contribute to rising levels and severity of organised crime. Corruption, impunity, clientalism, a lack of ethics and an absence

of effective checks and balances undermine the development returns from investment. This can occur at multiple levels, from the transactional working level, to mid-level institutional interests, and, in some cases, the highest levels of the state. In return, organised crime feeds into and fosters these behaviours.

Development programming in environments where this is a challenge will need to look specifically at how to break down this governance paradigm. Whereas many development interventions emphasise the need to build a bottom-up approach, and to engage at the beneficiary level, in fact when designing accountable governance systems, the political economy of the system is shaped strongly and deliberately from the top, and in the interests of the wealthy political and business elite. In that case then, measures are needed that must be a combination of both political and technical to change the accountability system for those elites.

To break the cycle of self-interest, development actors and the international community need to make the repudiation of criminal and corrupt acts a reputational issue

To break the cycle of self-interest, development actors and the international community need to make the repudiation of criminal and corrupt acts a reputational issue: the greatest incentive for a state to oppose organised crime is the reputational risk and the international sanctions that accompany it. The consequences could include a reduction or freezing of foreign aid (used in the case of Mali in 2012),<sup>170</sup> reducing foreign investment, sanctions, asset seizures, or placing restrictions on official travel and diplomatic privileges.<sup>171</sup> At the same time, states who work actively to combat criminal economies, and leaders who demonstrate integrity and effort to break down vested

criminal interests and alliances, should be rewarded with support.

At the party-political level, renouncing organised crime, drug trafficking or illicit flows, can easily be made a campaign issue. Asking candidates to renounce criminal behaviours, to sign codes of conduct or agreements on certain issues that would carry penalties if they are elected and then found to associate with crime should not be difficult.

The types of structural methods that have been shown to have impact in increasing accountable governance and building capacity to respond to organised crime's infiltration or association with central or local governance include 'strengthening institutions of accountability, such as a parliamentary committee on drug control and organised crime, an anticorruption agency and an ombudsman's office. The independence and authority of such institutions are good indicators of a government's genuine interest in reform.'<sup>172</sup> Transparency measures, such as those laid out above in protecting the political process can provide technical barriers.

### **Build in regulation and controls of key development nodes**

For all development initiatives, to prevent organised crime exploiting the 'space between', it will be necessary to build in appropriate levels of monitoring, regulation and oversight into the resource transfer, investment, implementation and ongoing management of new programmes. These should be commensurate to the extent of the organised crime challenge, as evidenced by a political economy analysis undertaken at the outset.

In low risk jurisdictions, this might mean just ensuring that programming efforts include technical means to streamline administrative processes, ensure appropriate oversight and reduce individual agents' ability to exercise discretion over the system. In higher risk jurisdictions, a number of recent studies have emphasised the role of non-state actors and civil society in reducing corruption, raising awareness, and fostering public demand for more transparency and better service delivery. Independent, or civilian, oversight can

support moves towards a more responsive set of state institutions. A free and active press can work to leverage public pressure to hold governments to account, and mobilise international attention. In the worst cases, international oversight over key institutions can support the institutional change required, but only if capacity transfer is sufficient to allow the mechanisms to be sustainable in the long term is ensured.

Sectors particularly vulnerable to exploitation are those with large-scale procurement processes – both in service industries and in construction or infrastructure projects. In the latter case, fostering accountable governance may include trade regulation and controls as part of infrastructure development programmes. Measures to safeguard the integrity of public procurement and contracting can be built into ODA or FDI investments for Africa's flagship agenda, including for example, supporting the development and passage of access to information bills, supporting efforts to regularly publish information related to public procurement and contracting, and supporting international and civil society oversight bodies for implementation.

### **Measuring progress**

The challenges for implementing these suggestions are likely to be daunting. Three, in particular, deserve mention: the nature of structural challenges confronting the continent; the political and institutional challenges confronting the African state – which render the prospects for good governance rather dim, and the resilience of and voracious appetites embedded within the illicit economy.

A central message from this paper is that developmental actors will need to grasp the diverse and complex nature of organised crime and its central relevance for development and growth in developing economies. Organised crime is of central rather than marginal relevance to developmental strategies.

Achieving sustainable development requires strengthened capacities for evidence-based policymaking to assess trade-offs in policy decisions, to measure progress and to evaluate trade-offs in policy actions. Without access to appropriate baselines, to

data and adequate capacity for data analysis, making evidence-based policy decisions is impossible.

While Goal 16 is widely considered critical to achieving overall development goals, in many respects it is the most ambitious goal of the SDGs and faces unique practical challenges in its measurement and implementation.<sup>173</sup> Organised crime compounds these challenges, given the illicit nature of the subject. It is pertinent then that SDG Target 16.4, which seeks to combat all forms of organised crime, has no relevant indicator.<sup>174</sup> The closest measure is 16.4.1 which measures the total value of inward and outward IFFs, but this falls far short of capturing organised crime.

Organised crime is a multidimensional threat and cannot be accurately measured by using only a few indicators. This is in sharp contrast to the limited number of indicators currently in place to measure progress under the SDGs. For example, the UN Rule of Law Indicators used 135 different indicators to measure the rule of law in different countries. In contrast, Target 16.3, which relates to the promotion of the rule of law at the national and international levels, has two indicators to measure this. Neither of the indicators are actual measures of rule or law, but rather proxies for the efficacy of government judicial services. In turn, there will be a substandard level of measurement for many targets, including Target 16.4, the only target which accounts for general organised criminal activity.<sup>175</sup>

In addition to a lack of indicators, collecting data will also be a challenge. Under the SDG implementation framework, national statistical offices (NSOs) will be responsible for gathering the official data. But some targets cannot be practically independently measured by NSOs for politically sensitive reasons. Organised crime with the multi-dimensional nature of the threat, the covert nature of the activities and actors involved, and in some case the relevance of the vested interests of sitting governments, certainly falls into this category. In some cases, effective monitoring of implementation will require the active engagement of civil society watchdog groups. For example, governments may be challenged or unwilling to collect the data on SDG indicators 16.5.1 on corruption or 16.10.1 on the killing/detention of journalists/human rights activists.<sup>176</sup> Fortunately,

in both these cases, international and domestic civil society organisations perform that role. Organisations like Transparency International, 'I paid a bribe', the Freedom House Index, or continental organisations like Afrobarometer or the Mo Ibrahim Index, collect and analyse relevant data for monitoring progress in specific and relevant goal areas.

The challenges with measuring progress in achieving Goal 16, and for organised crime in particular, does not mean it should not be done. Without better quality data, it will not be possible to properly report on the goal and understand whether countries are moving in the right direction. The ENACT programme is working to build a multi-dimensional assessment tool that would provide new datasets for Africa, measuring the presence of organised crime, the impact that it has across relevant sectors, and the nature of the response. No measure will be perfect. But to ensure development gains are not undercut or lost will require that a greater effort is made across the development community to begin to come to terms with organised crime; and to systematically understand how to deliver crime-sensitive and crime-proof development.

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## About ENACT

ENACT ([www.enact.africa](http://www.enact.africa)) builds knowledge and skills to enhance Africa's response to transnational organised crime. ENACT analyses how organised crime affects stability, governance, the rule of law and development in Africa, and works to mitigate its impact.

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