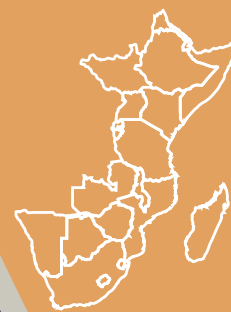


# CIVIL SOCIETY OBSERVATORY OF ILLICIT ECONOMIES IN EASTERN AND SOUTHERN AFRICA



## RISK BULLETIN

### SUMMARY HIGHLIGHTS

- 1. South Africa's police are incentivized to raise arrest rates for drug-related crime, which is debilitating the court system without undermining drug markets.**

Despite recent legislative change around cannabis, South Africa's police are still being incentivized to indiscriminately target people who use drugs, in the pursuit of performance statistics, which mandate an increase in arrests for drug-related crime. Data collected by our research team from Wynberg Magistrates' Court shows how this is inundating the court system, in pursuit of a strategy that several key parties – law enforcement, courts and independent observers – claim is fundamentally flawed.

- 2. Inner-city Johannesburg and Pretoria heroin syndicates are embroiled in xenophobic violence. The situation is volatile and likely to erupt in violence again.**

In the latest wave of xenophobic attacks, at least 12 people have been killed, over a thousand businesses looted, and thousands from migrant communities displaced.<sup>1</sup> The country's heroin markets, largely supplied by Tanzanian syndicates, have been closely connected to the violence: conflict between Tanzanian heroin dealers and taxi drivers in Pretoria sparked riots, and in Johannesburg violent protesters called for foreign-operated drug dens to be shut down. The impact on heroin trading has been different in Johannesburg and Pretoria, but the close and complex relationship with corrupt police officers is a key theme in both cities.

- 3. Recent arrests and trials in Mozambique raise hopes in the fight against rhino poaching, but simplistic interpretations should not lead to complacency.**

There are promising signs in the fight against rhino poaching in Mozambique: fewer poaching incidents

have been reported, and there have been key arrests and convictions, unlike in previous years. These include the arrest of Lucílio Matsinhe, son of a prominent FRELIMO veteran and former minister. However, the impact of these cases is ambiguous, and data on rhino poaching in both Mozambique and South Africa is difficult to interpret with confidence.

- 4. The Akasha conviction is a landmark in (foreign) law-enforcement responses to the drug trade. But removing 'kingspins' often has unintended consequences. New players are already emerging.**

The prosecution of prominent Kenyan drug traffickers Ibrahim and Baktash Akasha has made its mark on Kenya's criminal landscape since their extradition to the United States in January 2017. Kenyan authorities have escalated investigations into drug trafficking, and pressure is mounting on political, judicial and business figures believed to be connected to the Akashas. At the same time, however, new dynamics are emerging, not only in reaction to the void left by the Akashas' cartel, but also in the increasingly active involvement of public servants – including police and judicial officials – in drug-trafficking organizations.

- 5. Mombasa is in decline as a transnational trafficking hub for ivory, but the trade is being displaced to more poorly monitored ports.**

The latest data on ivory trafficking seizures across Africa shows a broad shift towards western routes in place of previously dominant eastern routes. Crucially, there have been no recent seizures in Mombasa, previously a prominent hub. This correlates with shifts in Kenya's heroin markets and may be linked to the downfall of the Akashas' criminal syndicate, as well as to broader changes that have made Mombasa a less welcoming environment for traffickers.



## 1. South Africa's police are incentivized to raise arrest rates for drug-related crime, which is debilitating the court system without undermining drug markets.

Drug-related crimes are given prioritized treatment in South Africa's crime statistics and police monitoring. Law-enforcement targets aim to increase arrests for drug-related crimes year on year.<sup>2</sup> This includes arresting people for possession of drugs for personal use. The rationale behind this approach is that the use of drugs, in addition to being illegal, drives further crime and violence.<sup>3</sup> However, this rationale is built on a number of dubious assumptions relating to the nature of drug markets and the drivers of drug-related crime and violence, and it has knock-on damaging effects for South Africa's criminal-justice system.

To investigate the effect that these targets are having on South Africa's criminal-justice system, our research team obtained data from the court roll of Wynberg District Magistrates' Court, Cape Town, for cases tried over the five-month period between January and May 2019.

Magistrates' courts are the lowest in South Africa's court hierarchy, and divided into district and regional courts.

District courts hear civil matters and less serious criminal cases (for example, district courts are not mandated to try cases of rape or murder). Regional courts also hear civil cases, but also more serious criminal cases, which are referred from district courts at the magistrate's discretion, according to both the severity of the case in question and the previous criminal record of the defendant.

Cape Town is served by over a dozen district magistrates' courts and a smaller number of regional courts. Wynberg is a suburb that borders the Cape Flats on the southern fringes of Cape Town, and the catchment area of the district magistrates' court includes both Wynberg Main Road, a notorious hub of criminal activity, several that have high levels of drug-related and/or gang crime (such as Manenberg, Steenberg, Wynberg and Grassy Park), and other neighbourhoods with lower rates of crime overall, such as Rondebosch (see the map). Wynberg is also home to one of the (fewer) regional courts to which cases are referred.

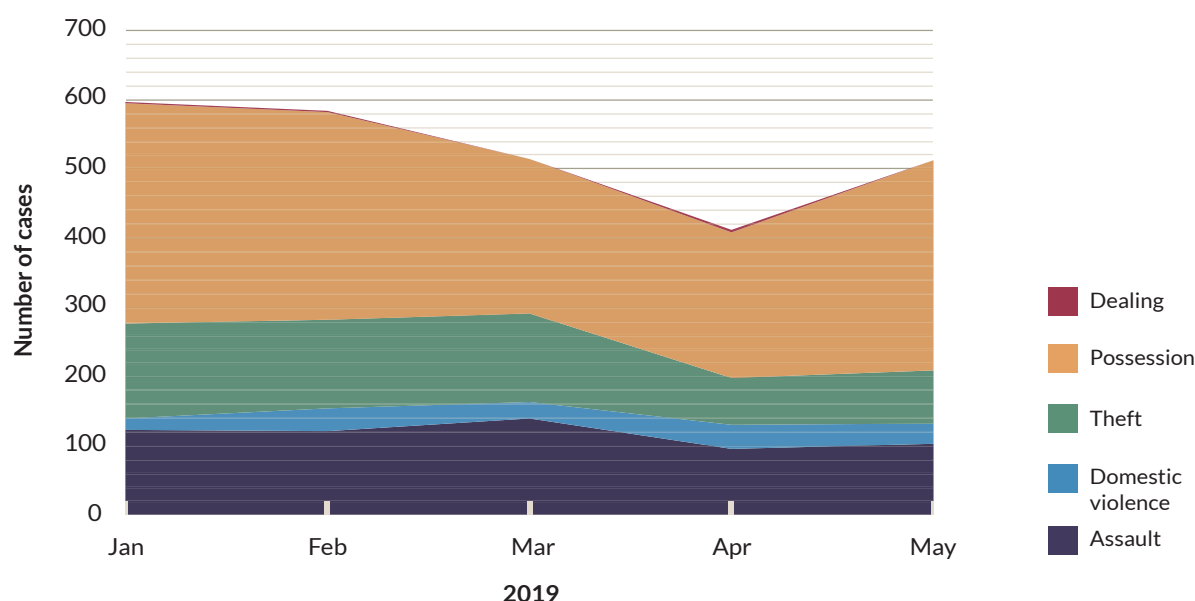


FIGURE 1 Wynberg Main Seat

The data collected provides key insights into how some of South Africa's most active drugs markets are being policed and the impact of these strategies on the court system. The data compared the proportion of drug-related offences (broken down into cases of possession for personal use and dealing offences) to other prominent crime types: assault (including cases of grievous bodily harm), theft and domestic violence (see figure 2).

The differentiation between a charge for possession for personal use and dealing (possession with intent to sell)

is a decision taken according to the discretion of both the police officers and the magistrate involved according to the weight and value of drugs seized: more than 30 'units' of one type of drug generally results in a dealing charge. What constitutes a unit varies according to the drug type: for heroin, a unit is a quarter gram; for cannabis (known locally as 'dagga'), a unit is a small packet known as a 'stopper' (equating to one cigarette's worth of cannabis), although different grades carry different values for both buyers and police.



**FIGURE 2** Cases brought before Wynberg Magistrates' Court, January–May 2019

We found that 99.3% of all drug-related cases brought before the Wynberg Magistrates' Court during this period related to possession offences, while the number of cases for drug dealing never rose above five a month. Dealing cases brought before the court in this period mostly related to dealing in dagga and tik (methamphetamine), with isolated cases involving heroin and cocaine. The paucity of dealing cases (the remaining 0.7%) does reflect a certain proportion of higher-level dealing cases that are referred to the regional court; however, it suggests that even at the 'street' level, the majority of those being picked up by the police are users, and not even street 'hustlers'.

What is perhaps even more alarming is that, compared to assault, domestic violence and theft cases, drug offences made up 52% of the total, which remained consistent across the five-month period. The total number of possession cases (1 354) was more than double the

second-most frequent crime type: assault (586 cases).

This high proportion of drug-possession cases passing through the Wynberg court is a good indication of how arresting people who use drugs is placing a huge burden on South Africa's entire criminal-justice system, particularly in magistrates' courts. It also eventually places a strain on the prison system.

The 2018/19 crime statistics for South Africa, released in September by the South African Police Service, show that 68.6% of the total number of crimes detected by police action were drug-related.<sup>4</sup> This means the majority of proactive and street-level policing is directed towards drug-related crime. If the data from the Wynberg courts is any indication, it also means that most of this policing effort is directed towards targeting offences for drug possession for personal use, rather than the retail, street-level drug trade (which would likely be tried in

the same court). For completeness, we would need data from the Regional Court to make an informed comparison about the amount of police resources that are going into investigating higher-level drug-related organized crime and trafficking, but preliminary research suggests that these figures will not be redeeming.

## ANALYSIS

Current government-mandated targets for arrests for drug-related offences – which are translated into specific targets at the local, station level – create perverse incentives for police officers. It becomes more expedient for the police to pursue simple, low-level possession cases by arresting known drug users (an approach that ramps up arrest rates) rather than following more complex, resource-intensive investigations that target powerful criminal actors and have a bigger impact.

This strategy is widely acknowledged to be counterproductive. Criminalizing drug users does not diminish drug use (or, consequently, the scale and profitability of the consumer market) or reduce street-level crime.<sup>5</sup> Nor is drug use necessarily a driver of violent crime, as the underlying logic of this strategy assumes.<sup>6</sup> In fact, a key driver of drug-related violence in the Cape Flats and South Africa more broadly is competition between gangs over territorial control for drug sales, and not violence committed by users.<sup>7</sup>

Furthermore, imprisonment of drug users exacerbates pre-existing problems by excluding already marginalized people from society and formal employment,<sup>8</sup> and compromises the legitimacy of the police and courts in already marginalized communities, which, in turn, has the effect of fuelling gang recruitment and damaging effective intelligence building and investigations into serious criminal activity.

Our interviews across neighbourhoods with high crime rates in Cape Town also show that the pressure to keep up with target arrest figures has led to police officers targeting drug users through stop-and-search in areas where drug purchases are known to be made. Known points of sale and consumption are target sites for corrupt police, who allegedly extort bribes. Users have also reported other forms of abuse by police: false accusations or cases of police planting drugs in order to falsify a possession charge.<sup>9</sup> The criminalization of drug use and possession is therefore creating an incentive and opportunity for corruption.<sup>10</sup>

As mentioned, these cases overburden South Africa's already overstretched court system, which is struggling with under-resourcing and under-staffing.<sup>11</sup> The already constrained resources in the courts and police service could be better allocated to other pressing forms of crime, such as domestic violence. Violence against women in South Africa, and impunity of the perpetrators, has reached such levels recently that it was described by President Cyril Ramaphosa as a 'crisis' situation in September.<sup>12</sup> Domestic assault cases heard in lower courts can be an important point of intervention as part of a strategy for preventing femicide, and as such should be given adequate attention – something that is unlikely to happen when courts are generally overburdened.

Moreover, people working within the criminal-justice system are highly critical of it. Our interviews with prosecutors reveal that only a portion of drug-related arrests are brought to trial. Reports from Wynberg Magistrates' Court suggest that National Prosecuting Authority staff are working to triage low-level cases and administer other sanctions, such as fines rather than custodial sentences. This is in the interest of saving court time and because magistrates acknowledge that criminalizing drug users is simply counterproductive.

Therefore, it seems that these two crucial parts of South Africa's criminal-justice system are in conflict with each other: as the police are incentivized to flood the courts with low-level drug-possession cases, the courts are working to reduce their workload and divert offenders to other routes. Police interviewed in the course of our research likewise acknowledge that the strategy is misguided, and that they are forced to pursue management targets that are divorced from community needs.

The challenge lies in the fact that a key indicator used to monitor and evaluate police performance is driving counterproductive and unethical police behaviour. It is also contributing to the court system's current state of dysfunction. Although the complex drivers of South Africa's drugs markets may be extremely difficult to tackle, rethinking a police performance target that has serious and unintended counterproductive effects might be a relatively easy starting point.

## CANNABIS

There is one final, tangential issue raised by this data. While drug-related arrests accounted for the majority of arrests in the data analyzed here, in 2018 they decreased by 28.1% on the previous year. This is almost certainly a result of the Constitutional Court ruling of 18 September 2018 legalizing the personal possession and use of cannabis. Despite the ruling, however, cannabis possession continues to provide a proportion of the cases

that are heard in the Wynberg court. This is because although the decision allows cultivation and consumption of cannabis in private homes, possession on the street remains a chargeable offence. Our interviews with police officers suggest that arrests continue to be made for possession of even just one or two 'stops' [a standard retail dose] of cannabis.

## 2. Inner-city Johannesburg and Pretoria heroin syndicates are embroiled in xenophobic violence. The volatility of the situation is exacerbated by complicit police.

As looting and violence targeting African foreign nationals has flared up again in South Africa's cities in recent weeks, the accusation that foreign nationals are involved in drug dealing and criminal activity has been a prominent and inflammatory theme. South African politicians have used the accusation as a pretext to stoke inter-community discord and pursue populist agendas, and members of local communities have likewise cited it as a justification for engaging in violence themselves,<sup>13</sup> a cover for more complex agendas of xenophobic mistrust and grievances over jobs, housing and businesses.<sup>14</sup>

Our previous research has explored how key criminal syndicates in South Africa do draw on networks within migrant communities, particularly Tanzanian networks in heroin markets.<sup>15</sup> Syndicates controlled by foreigners also seek to blend in within their wider immigrant communities as a means of protection – for example, by not marking themselves out in terms of distinctive gang markers and tattoos – even when their criminality and violence are denounced by these communities. However, at the same time, it is South African-controlled syndicates that make up most of the powerful criminal groups in the country. Criminal syndicates embedded in migrant communities have been able to gain a foothold in South Africa within the broader picture of police corruption, the lack of preventative measures to contain the growth of the criminal economy, and the historic control of these networks over the trafficking of key substances, which provide links to suppliers and knowledge of illicit production that local organizations do not have such ready access to.

Across the country, South African criminal syndicates, foreign criminal syndicates and corrupt elements in the police service all interact in communities where there is an atmosphere of xenophobic unrest and economic stress.

It is in this context that in recent weeks, underworld dynamics have spiralled out of control, and helped to catalyze the catastrophic rioting seen in certain areas.

The incident that sparked the first wave of protests and rioting in Pretoria showed these dynamics in action as well as the complexity of the dynamics between Tanzanian networks, corrupt police and criminal figures within the taxi industry.

Local media reports have described how violence erupted in Pretoria on 27 August following the killing of taxi driver Jabu Baloyi in the city centre after an altercation with drug dealers.<sup>16</sup> Reports differ as to how the dispute began: some media sources have reported that Baloyi and other taxi operators were trying to forcibly 'clear' the city centre of drug dealers.<sup>17</sup> The local branch of the ANC has called for a street in Pretoria to be renamed in his honour.<sup>18</sup> However, police watchdog, the Independent Police Investigative Directorate, stated on 11 September that it has received information that Baloyi's death has been misrepresented and is investigating related corruption allegations.<sup>19</sup>

In Pretoria, many of the Tanzanian dealers operating locally are based in the inner-city suburb of Sunnyside, the area in which the 27 August violence erupted.<sup>20</sup> Several sources connected to the drug trade have told us their accounts of the original incident, as it unfolded, and its immediate aftermath.

A ruined building known locally as the White House is used as a base by several Tanzanian dealers. One long-term resident of the house recounted how on 27 August, a taxi driver approached one of these dealers with a laptop, wanting to exchange it for heroin. The dealer (name unknown) accompanied the driver to a nearby

shop owned by a well-established Tanzanian dealer called Asani Chura.<sup>21</sup> This set the scene for the dispute, as the driver reportedly seized cash from Chura and ran off, keeping the laptop. Chura and the other dealer confronted the driver at a taxi rank, whereupon a larger group of taxi drivers present encircled the two Tanzanians and attacked them. This led to a reprisal confrontation when the Tanzanian returned with support from the White House. Among them was a Tanzanian known as Rio Tonga, a former Dar es Salaam gangster with a reputation for settling disputes with violence. At the taxi rank, guns were drawn, and Baloyi was killed, allegedly by Tonga. An hour later, the city was in chaos, as groups of taxi bosses went hunting down drug dealers, and South African mobs looted foreign-owned businesses, and, later, any business they could break into.<sup>22</sup> The violence continued and similar riots followed in other cities, including Johannesburg.

The shooter, Tonga, is reportedly a former member of the Kommando Yosso gang, which operated from the Dar es Salaam slum of Mburahati in the 1980s and 90s before the group was broken up by the Tanzanian government. This reflects a pattern widely reported by Tanzanian communities in South Africa, that violent actors are often members of former Dar es Salaam criminal groups – such as Kommando Yosso and Mwiba Mitu (broken up in 2015) – who have been displaced across the region by law enforcement action, often injecting more violent methods into the diaspora communities they then join.

The aftermath of this violence has affected drug markets on several levels, and in different ways in Pretoria and Johannesburg, including reprisal attacks, the regional displacement of criminal actors, heroin prices and syndicates' exploitation of corrupt police officers.

In Pretoria, residents of the White House reported that on 24 September, a vigilante group (allegedly formed of taxi drivers) led a reprisal attack against the house residents. We received conflicting reports of the event. One source, claiming to have been in the building when the attack occurred, said that two Tanzanians had been killed and six or seven had been hospitalized. Another said nobody had been killed, but that two Tanzanians had been kidnapped by the group, and many had been severely beaten and were in hospital. Police reported that they had no record of an incident. Fearing vigilante attacks, intense police attention and deep distrust within the Tanzanian community, several dealers left Pretoria during this

period. Tonga, Chura and others involved in the 27 August incident reportedly immediately left for Maputo.

This is the latest round of a recurring cycle of displacement of criminal figures across the region, either following police action or localized violence: Tonga had reportedly fled to Mozambique in the 1990s following the breakup of Kommando Yosso. In the words of one Pretoria dealer: 'He came to South Africa around the time of Mandela, and from the start he carried a gun. He was kicked out of Durban and came to Johannesburg. He was kicked out of Johannesburg and he came to Pretoria. Now he burned Pretoria down and ran away to Maputo.'

At the same time, the crackdown against drug markets led by President Magufuli's administration is a push factor against drug dealers returning to Tanzania. According to one interviewee who works for a Tanzanian 'heroin business' in Johannesburg, the violence in South Africa does not outweigh the risks of returning home: 'Magufuli has made war on young men. If soldiers find a group of us playing cards somewhere, they start beating straight [away]. If you try run, they can shoot. In the report they will say, "This dead one was a drug dealer, we found these drugs in his shoe."'

The vacuum left by dealers in Pretoria allegedly led to a drop in supply and high demand for marijuana and heroin in some areas. One source said he had been able to sell heroin 'sections' (quarter grams) for R50 in the first half of September, double the price before the violence erupted. However, vigilantism and intense police attention have made street dealing very risky. Simply being out on the street was a risk, as police started spot-checking pedestrians for documentation and arresting those unable to produce proof of legal residence. Some syndicate bosses apparently leased rooms, so that their dealers could operate discreetly, but police were responding strategically, arresting known Tanzanian heroin users and offering to release them without charge if they agreed to point out dealers' houses. At least one alleged snitch had been killed by his own community.

By contrast, reports from Johannesburg suggest that, while these weeks have been chaotic, disruption to the heroin trade has been less marked. The price of heroin has not risen above R20 per quarter gram, and trade remains in the control of Tanzanian syndicates, although there has been considerable shake-up of personnel. Certain



'corners' (drug retail points, often quite literally street corners) were temporarily deserted, as syndicates feared that police officers who would otherwise be amenable to bribes would be under pressure to arrest and charge known dealers, leading to some inter-syndicate feuding over territory.

The feuding is fuelled by syndicates weaponizing corrupt police officers to target rival dealers. As an example, one Johannesburg-based dealer we interviewed was arrested the day he returned to his corner. The arresting officer – who has accepted money from him many times before – told him that another Tanzanian syndicate boss had paid him to make the arrest. In response, the dealer's brother, who resides in Pretoria, paid a Pretoria police contact R1 000 to drive to Johannesburg in his personal vehicle and intervene. The dealer was released and returned to Pretoria with the officer. On the road, the dealer reported the incident to his boss, who reportedly then paid another policeman to arrest the Tanzanian man who had originally ordered the police

action. 'That guy was arrested and charged. He's in Sun City [Leeuwkop Prison] now.'

However, while many police officers are compromised, how this plays out is highly complex at the local level, and much can be determined by attitudes in individual stations. Effective street dealers learn to navigate these challenges, including dealing with officers from different stations simultaneously. In Pretoria, for example, several residents of the White House reported that police officers had protected residents by warning of impending vigilante attacks, entering the building and shouting for residents to get out.

South Africa's urban drug markets remain a very volatile space, as the operation of corrupt police officers, foreign-controlled drug-trafficking syndicates and violent South African vigilante and criminal groups operate in the same space, amid a tense atmosphere of wider xenophobic violence. Without interventions that can tackle complex local dynamics, violence may well erupt again.

### **3. Recent arrests and trials in Mozambique raise hopes in the fight against rhino poaching, but the poaching figures are hard to make sense of.**

Mozambique has long been recognized as a hub for rhino poaching syndicates that operate from the country while targeting South Africa's rhino population. According to reporting from the International Union for Conservation of Nature (IUCN) rhino specialist group to the Convention on International Trade in Endangered Species (CITES) conference of parties in 2019, Mozambique is a major transit state for illegal rhino horn and, in terms of the amount of horn entering the illegal market, the country is second only to South Africa. This is despite Mozambique's native rhino population being comparatively small: there are around 30 animals, according to recent government estimates compared to South Africa's several thousand.

On 30 September 2019, a spokesperson for the Mozambican police service announced that Lucílio Matsinhe, son of a popular Mozambican war veteran during the struggle for the country's liberation against Portuguese colonialism, was arrested in the capital, Maputo, in possession of rhino horns. The spokesman said that their data showed Matsinhe was a 'repeat offender' in wildlife trafficking and the forgery of precious stones.<sup>23</sup>

The arrest was initially met with shock and surprise in Maputo and by conservationists, as the arrest of rhino

traffickers, particularly those with connections in powerful political circles, is rare in Mozambique. However, on 8 October, Carlos Lopes, representative of the National Administration for the Conservation Areas (ANAC), reported that the two horns found with Matsinhe were false. Lopes said that they had been made with acrylic material, goat skin and a beer bottle.

As more details surrounding the Matsinhe case remain to be released, other cases have also emerged in recent months. On 22 August, the Maputo City Court sentenced a Chinese citizen, Pu Chiunjiang, to 15 years' imprisonment for trafficking rhino horns; he also received a fine. According to ANAC representatives, this is the first case of a foreign national being jailed in Mozambique for wildlife crime. Chiunjiang was arrested at Maputo airport in possession of 4.2 kilograms of rhino horn. There have been several similar previous arrests of Chinese and Vietnamese nationals, but none have come to trial.<sup>24</sup>

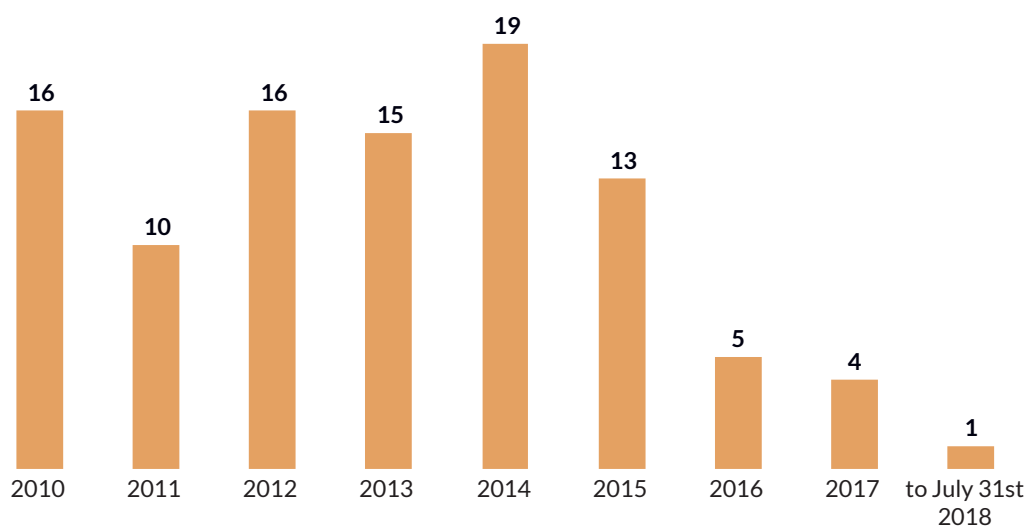
There have also been arrests of Mozambicans in South Africa. In September 2019, two Mozambican citizens, Orlando Matuassa and Tomás Maluleque, were sentenced for 16 and 17 years, respectively, for poaching two rhinos in Limpopo National Park in Mozambique, which connects to South Africa's Kruger National Park.<sup>25</sup> In April, two

Mozambican citizens (a father and son) were detained in South Africa. They had been found in possession of two rhino horns between Belfast and Wonderfontein, in Mpumalanga Province.

Nevertheless, reports suggest that poaching incidents in Mozambique and South Africa by Mozambican networks are in decline. According to one former poacher and current member of the Mozambican Border Guard, poaching activities are still occurring but in lower intensity: 'The situation now is stable. We have notified very few cases of rhino poaching this year ... these few cases are taking place in the small private parks and safaris in South Africa. The poachers are coming from Magude district [about 120 km from Maputo] and

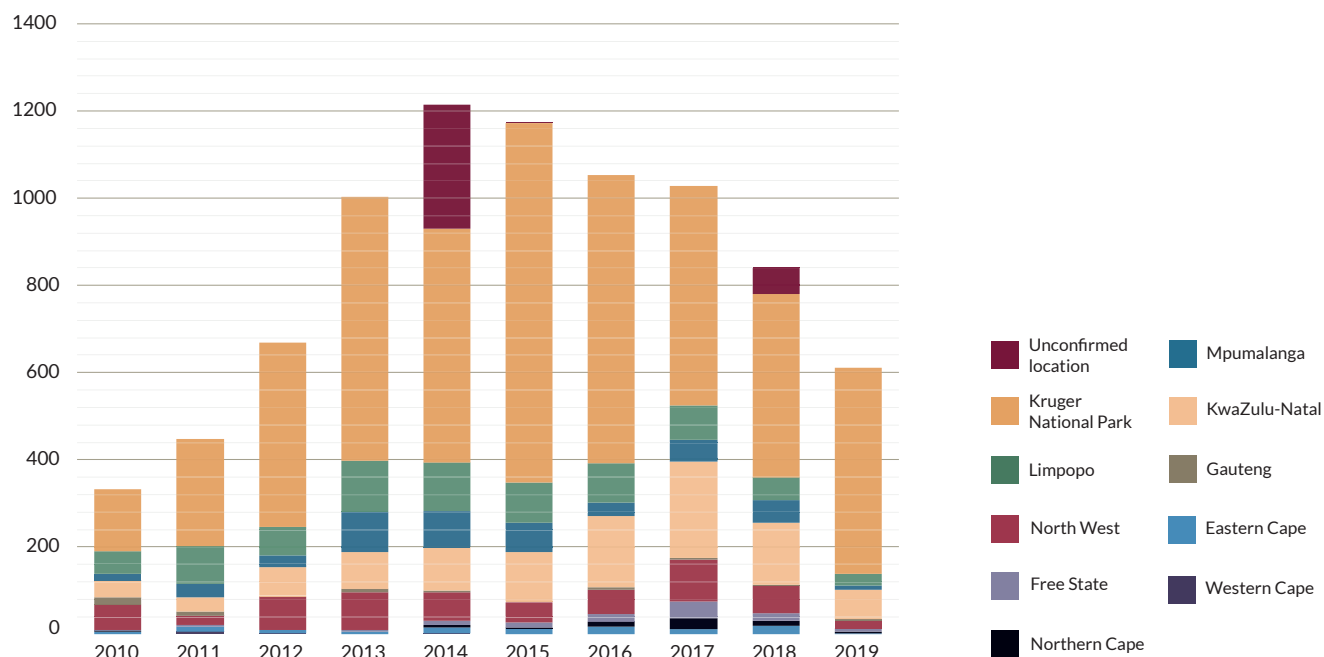
Massingir district, Gaza Province [about 300 km from Maputo].' These areas neighbour South Africa.

However, interpreting reported rates of rhino poaching in both Mozambique and South Africa presents some difficulties. According to the IUCN rhino specialist group, annual poaching levels in Mozambique have decreased since 2014, when 19 animals were killed, to 13 in 2015; five in 2016; four in 2017; and there had been only one case up to July 2018 (see Figure 4).<sup>26</sup> Reporting from the PoachTracker project – an initiative of environmental journalism group Oxpickers, which draws on official, media and crowdsourced data to collect information on poaching in South Africa – suggests that poaching in South Africa has experienced a similar decline (see Figure 5).



**FIGURE 3** *Reported incidents of rhino poaching in Mozambique, 2010–1st half 2018*  
SOURCE: IUCN Rhino specialist group





**FIGURE 4** *Reported incidents of rhino poaching in South Africa, 2010–2019*  
 SOURCE: Oxfelders, PoachTracker database: <https://poachtracker.oxfelders.org>

There are debates about how to interpret this decline: while the South African Ministry of Environment readily claims the figures as a testament to the success of state anti-poaching initiatives, some conservationists have argued that, as extensive poaching in recent years has decimated the rhino population, there are simply fewer rhinos available to poach. According to environmental journalist and editor of Oxfelders, Fiona Macleod, ‘while it is true there is a smaller population, it may well also be the case that the remaining rhinos are in fact better protected’.

How the reported decline in rhino poaching in both South Africa and Mozambique is interpreted, how this data should be interrogated, and if the recent arrests of poaching figures indicate a real swing by the Mozambican authorities to combat the issue, all remain open questions. Uncritical acceptance of a seemingly positive shift risks complacency in a context where little is being done to alleviate the drivers of poaching.

#### 4. The Akasha conviction is a landmark in (foreign) law-enforcement responses to the drug trade, although it has not fundamentally undermined the East African heroin trade. New players are already emerging.

The Akasha brothers took over their father Ibrahim Akasha’s drug-trafficking syndicate following his murder in 2000, which had been trafficking Afghan heroin through Mombasa since the early 1990s. For nearly two decades, the brothers led this massive criminal enterprise, diversified into other drug markets (including trafficking Mandrax to South Africa and supplying Colombian cocaine to Europe) and developed interests in other regional criminal markets, including ivory, rhino horn and arms. Following their arrest in 2014, they were forcibly extradited to the US on 29 January 2017, to stand trial in New York along with accomplice, Vicky Goswami. Both brothers pleaded guilty to offences relating to narcotics,

weapons and obstruction of justice. In August 2019, Baktash Akasha was sentenced to 25 years in prison; his brother’s sentencing is scheduled for November 2019.<sup>27</sup>

In response, Kenyan authorities have increased the pressure on criminal figures operating in Mombasa, which has long been an epicentre of narcotics trafficking in East and Central Africa and was the stronghold of the Akashas’ organization. Kenyan security personnel have intensified their crackdown on drug-related crime, and Cabinet Secretary Fred Matiang’i has argued that there is a ‘clear nexus’ between a recent upsurge in gang violence in the coastal city and struggles for control of its drugs markets.<sup>28</sup>

Matiang'i also stated that authorities are investigating 30 influential Mombasa-based businesspeople for connections to drug trafficking, although their identities have not been revealed. This follows the arrests of 18 other local businessmen and politicians in late August, among them a member of the Mombasa County Assembly, Ahmed Salama.<sup>29</sup> Salama is reportedly a key ally of Mombasa Governor, Ali Hassan Joho, who has previously been identified as a major drug-trafficking figure.<sup>30</sup>

Among the 30 currently under the microscope is Ali Punjani, a wealthy local tycoon who operates a fleet of haulage, clearing and freight companies in Mombasa. Punjani is considered one of Mombasa's leading drug traffickers and a natural beneficiary of the void created by Akasha's imprisonment, having been a long-time rival of the brothers.<sup>31</sup> Punjani is reportedly also sought by US anti-narcotics investigators and has been identified by the US as a high-profile suspect since being named in a confidential dossier in 2010.<sup>32</sup> A 20-strong multi-agency security team raided Punjani's residence in Mombasa in mid-August, and although Punjani was travelling to India at the time, his wife and a number of employees were arrested.<sup>33</sup> Subsequent reporting has suggested Punjani has returned to Kenya and that the police have been instructed not to arrest him.<sup>34</sup>

Key to the long-standing success of the Akasha syndicate was the brothers' exploitation of their links to corrupt officials. As described by the US Department of Justice,<sup>35</sup> following their arrest in 2014 they were able – through bribes paid to Kenyan police, judges and political figures – to achieve repeated adjournments and delays of their trial in Kenya, to obstruct their extradition to the US and even to continue running their drug-dealing operation.<sup>36</sup> Leading Kenyan officials and confidential government reports have denounced widespread corruption in the Kenyan judiciary, specifically among magistrates who have

protected drug traffickers from prosecution.<sup>37</sup> Reports have suggested that the US authorities are poised to indict and extradite several high-profile Kenyans in connection with the Akasha case. Although the names have not been made public, the list reportedly includes judges, sitting governors, a former cabinet secretary and a prominent lawyer.<sup>38</sup>

While the US prosecution has shone a light on how police, judicial authorities and politicians have helped provide drug traffickers with cover and protection, more cases are emerging of the direct and active involvement of public servants in drug trafficking, posing an additional challenge for the Kenyan authorities. Recent cases are Mombasa principal magistrate, Edgar Kagoni, who was arrested in September and charged with the disappearance of Sh30 million (about US\$300 000) worth of heroin held in court as evidence.<sup>39</sup> Kagoni has since filed a petition to stop his prosecution, arguing that a magistrate cannot be arrested over his judgments. In August, police officer Hamdi Yusuf Maalim was arrested along with six others suspected of being part of a trafficking network operating between Likoni and Diani, on the Kenyan coast.<sup>40</sup> Raids at Maalim's home resulted in seizures of three kilograms of cocaine and two kilograms of heroin. Police reported that the group were distributing drugs to Garissa, northern Kenya. Leading police figures, including the inspector general of the National Police Service, Hilary Mutyambai, have issued warnings to police officers collaborating with drug-trafficking organizations.<sup>41</sup>

Although this evidence is anecdotal, it seems that Kenya's judicial and law-enforcement agencies are dealing with a new wave of institutional corruption, even as investigations into the judicial protection of the Akashas and their associates remain ongoing.

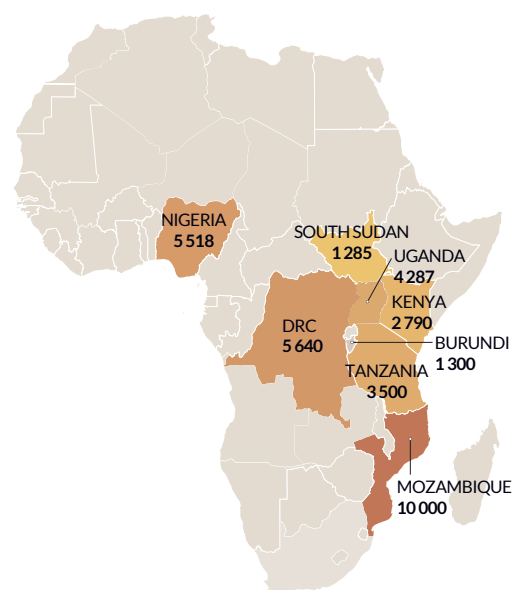
## 5. Mombasa is in decline as a transnational trafficking hub for ivory.

In September, Dutch-based NGO the Wildlife Justice Commission released an overview of major seizures and trends in ivory trafficking between 2015 and 2019.<sup>42</sup> As well as showing that the overall picture of ivory trafficking out of Africa has deteriorated (the average weight of ivory contained in large seizures has increased by over 200% from 2015–17 to 2017–19), one of its major observations is that, since 2017, ivory trafficking routes have shifted from East to West Africa, with no major seizures in Kenya or Tanzania but a rising frequency of incidents in Nigeria,

Angola, Cote d'Ivoire and others (see Figure 6). And, tellingly, although Mombasa was the most commonly used port for trafficking ivory trafficking out of Africa for many years, no seizures of ivory have been reported there.

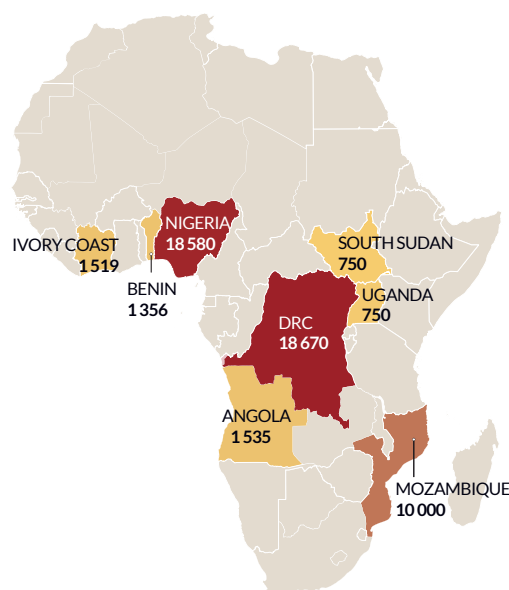
The decline of Mombasa as a trafficking hub correlates with shifts we have observed in Kenya during our latest research into heroin markets along the East African coast. Flows of heroin into and through Kenya remain strong, yet there has been an important geographic

2015–2017



0 kg 20 000 kg

2017–2019



African countries and total associated weight (kg) of ivory seized regardless of their role in the smuggling route, per period

**FIGURE 5** Countries associated with major ivory seizures, 2015–2017 and 2017–2019

shift, as Mombasa has waned in importance relative to Nairobi. Since 2017, there have been fewer seizures at Mombasa's airport and seaport, whereas Nairobi's Jomo Kenyatta International Airport has become the site of almost fortnightly seizures. While Mombasa seems not to be currently playing a significant role in commercial-level transit trade, smaller seizures are made; these are understood to be destined for the city's considerable base of heroin users (the largest population of users in Kenya).

This displacement from Mombasa to Nairobi may be connected to both domestic and international law-enforcement intervention, which has weakened previously established criminal networks. Among the interventions have been the extradition of former heroin kingpins the Akasha brothers to the US (as part of broader activity by the US Drug Enforcement Agency and law-enforcement support to Kenya) and a crackdown on Mombasa-based, drug-trafficking-linked figures, including businessmen and politicians, seen since the beginning of this year.

The Akasha case is also a relevant factor in shaping ivory trafficking trends: the Akasha syndicate was multifaceted, known to traffic in both heroin and ivory, along with a

multitude of other illegal goods. Investigators believe the organization has been linked to 13 large ivory seizures since 2013 – with a combined weight of over 30 tonnes – and that it was a (if not *the*) major player in trafficking East African ivory.<sup>43</sup> Reports from conservation NGOs in the region also suggest that organizations trafficking ivory on a large scale are very few in number. One recent study using DNA analysis of tusks seized between 2011 and 2014 concluded that there were just three major export cartels operating in Africa in this period: based in Lomé, Entebbe and Mombasa.<sup>44</sup> This was determined by matching tusks from individual elephants spread across two shipments, where the appearance of two tusks in successive seizures – often in quick succession through the same port – suggests the same trafficking groups are involved. Going by this evidence, the disruption of one of the most prolific networks trading from the African east coast may have opened an opportunity for West Africa-based networks.

Yet this shift cannot, of course, be solely attributed to the arrest of the Akashas. Other factors have also changed the dynamics of heroin and ivory markets in Kenya. In particular, Kenyan authorities have tightened restrictions on the licensing of container forwarding

and clearing companies. These companies have been widely used by prominent business figures accused of trafficking heroin as a front for illegal import–export activity, including heroin trafficking.<sup>45</sup> Leading drug kingpins have also in the past used their control over container freight stations (dry port facilities where containers are verified and cleared) as a means of controlling the illicit economy.<sup>46</sup>


Furthermore, the government established a coastguard in November 2018, which has increased the number of patrols aimed at interdicting illicit trade (previously under

the remit of the Kenyan navy).<sup>47</sup> At the same time, Nairobi offers the opportunity for traffickers to base themselves at a key regional financial and transport hub, and at the heart of Kenya's political power base. The recent expansion of Nairobi's inland container depot has brought the transit centre of the country into the capital.<sup>48</sup>

Current evidence suggests both the illegal ivory and heroin trades continue to flourish, despite Mombasa's decline. Both commodities have shifted towards different points of entry and exit, which are now in need of the scrutiny currently seen in Mombasa.

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