ISPAC

International Scientific and Professional
Advisory Council
of the United Nations
Crime Prevention and Criminal
Justice Programme

INTERNATIONAL ORGANIZED CRIME:
THE AFRICAN EXPERIENCE

Edited by
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Selected papers and contributions from the International Conference on
"International Organized Crime: The African Experience"
Courmayeur Mont Blanc, Italy
10-12 December 2010

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Acknowledgements

CONTENTS

INTRODUCTION

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In December of 2010, an international group of experts gathered in Courmayeur, Italy to focus their energies on the issue of transnational organized crime in Africa. Three observations led ISPAC and NIJ to believe that this was the best time to hold this meeting. The first was the growing evidence that transnational organized crime is a significant problem for all of Africa. In 2008, the United Nations Office on Drugs and Crime (UNODC) released a report that stated that 221 tons of cocaine transited West Africa annually, with a profit of $2 billion. Nongovernmental organizations have estimated that there are more than 500 human trafficking syndicates that enslave some 38,000 victims in South Africa alone. Frequent stories on piracy in the Horn of Africa and, increasingly, the Gulf of Guinea demonstrate further the growing challenge transnational criminal organizations pose to African countries.

Second is the increasing attention that transnational organized crime in Africa is drawing from nation-states within Africa and around the globe. As this book demonstrates, Africa has a diversity of transnational criminal markets, including mainstays such as drug trafficking and human smuggling but also specialized markets such as financial fraud and illegal poaching. Criminal markets perpetrate significant economic, political and social harms on African states and citizens, drawing additional concerns for those states struggling to develop robust economic and governance structures. Thus while African states are working together to combat the threats transnational organized crime poses to their citizens, they also recognize that Africa serves as a transit zone through which illicit goods and services flow from one continent to another. Organizations such as the Economic Community of West African States (ECOWAS), the European Union and UNODC have noted the growing importance of West Africa as a transit zone for drugs from South America destined for European markets. The President of the ECOWAS Commission, His Excellency James Victor Ghebo, captured this sentiment in remarks before the 2010 ECOWAS Seminar on Transnational Organized Crime and Human Security in West Africa when he stated, "These crimes committed across our borders have the notable feature of being inspired and controlled by criminal rings and cartels both within and outside our geopolitical area." Discussing the gravity of the situation, he noted that "I cannot overemphasize the importance and urgency of governments and institutions, both local and abroad, coming together sooner rather than later to fight this threat."

One last impetus for this meeting is the growing recognition among a number of nation-states that the time has come to update and expand the tools and programs employed to combat transnational organized crime. While states have come together to ratify and implement international conventions such as the *United Nations Convention on Transnational Organized Crime*, states have more recently undertaken steps to enact new strategies to confront transnational organized crime. A good example is the 2011 *U.S. Strategy to Combat Transnational Organized Crime*, which captures the pervasive threat and the comprehensive nature of the response required to meet it. The strategy details the social, financial, political and international threats that transnational organized crime poses to all nations and their citizens. The strategy lays out concrete legislative, enforcement, regulatory, economic and diplomatic goals that the United States will take in conjunction with bilateral, multilateral and private sector partners. The document mirrors those that the United Kingdom and other countries have issued recently.

In his charge to the meeting, co-organizer John T. Picarelli of the National Institute of Justice of the U.S. Department of Justice discussed this convergence of the problems transnational organized crime poses to Africa and the desire of African countries and other partners to do something it. From this convergence, he stated that the object of this meeting to explore transnational organized crime as an African phenomenon. The participants should view transnational organized crime through the eyes of African countries and their citizens, and to identify it is an African problem with solutions that African institutions can implement. From this objective flowed three goals for the meeting. The first was to identify the most salient trends in transnational organized crime as they pertain to Africa. Accurate knowledge of how transnational organized crime operates in Africa forms the basis of any response as well as helped to educate publics and other stakeholders about the nature and extent of the challenge this phenomenon poses to Africans. Second was to explore African solutions to transnational organized crime. The meeting would pivot off this threat assessment to explore how African countries and other actors could come together to address and mitigate the harms associated with transnational organized crime. The last was to provide an integrated and comprehensive picture of transnational organized crime in Africa. A number of studies to date have focused on specific forms of transnational organized crime in Africa or have focused on transnational crime in specific regions of Africa, but few had provided a holistic view of the way transnational organized crime has been impacting Africa.

Many of these themes arose in the keynote address of John Sandage, the Deputy Director and Officer-in-Charge of the Division for Treaty Affairs as well as the Chief of the Organized Crime and Illicit Trafficking Branch of UNODC. Mr. Sandage contrasted the socioeconomic challenges facing African countries

with the very positive political and economic developments taking place on the continent. Transnational organized crime, however, poses the most serious threat to the positive trajectory in the continent. After tracing the scope of the threat and discussing factors that facilitate the growth of transnational organized crime, he turned to the human, social and economic costs it imposes on Africa. Especially important for Mr. Sandage was the erosion of the rule of law, a vicious cycle as this erosion serves as a facilitator for transnational organized crime and yet the spread of crime further erodes the rule of law. He concluded by noting that UNODC's programs focus on four concrete areas for international intervention: strengthening states and the rule of law, fomenting a transnational response, focusing on intelligence and going after the money.

The first panel was titled "The Actors." The chair of the panel was Pierre LaPaque, the Officer-in-Charge of the Implementation Support Section of the Organized Crime Branch of the Division of Treaty Affairs in the United Nations Office on Drugs and Crime. The panel, as Mr. LaPaque noted, opened the conference with a discussion of those who engage in transnational organized crime in Africa. Mr. LaPaque discussed the numerous research and technical assistance programs that UNODC sponsors throughout Africa on this topic. The panel itself focused on three types of actors. The first were African actors engaging in various forms of transnational organized crime in Africa. Second were foreign actors operating transnational criminal enterprises in Africa. The last were African actors perpetrating transnational organized crime outside the continent. Throughout these topics, as Mr. LaPaque noted, it was important to focus not just on the criminals but on other actors that perpetrate or facilitate transnational organized crime, such as corrupt government officials or multilateral corporations.

The opening paper on the panel was from Peter Gastrow, a Senior Fellow and the Director of Programs for the International Peace Institute, and discussed the role of African actors in African transnational organized crime[1]. Mr. Gastrow opened with the important observation that history matters when examining transnational organized crime in Africa. Many of the trading routes that developed in East and West Africa are the same routes that smugglers exploit today. He continued that African crime groups are some of the most entrepreneurial that one finds and yet he sees regional differences in their operations. In West Africa, crime groups are are highly flexible, generally non-violent, entrepreneurial, increasingly multinational and collaborate with senior government officials. East Africa possesses a cornucopia of criminal networks

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[1]   Most of the presentations made at the conference are found online at *http://ispac.cnpds.org/report-international-organized-crime-the-african-experience-4.html.*

that largely focus on trafficking drugs and people and are generally located in the coastal cities of the region. In Southern Africa, recent drives for independence and the end of Apartheid led to the development of loose, ethnically-diverse criminal networks. Mr. Gastrow concluded that many African criminal actors were local in scope and yet had connections to foreign transnational criminal organizations.

The second speaker, Professor Ernesto Savona of the Catholic University of Milan and Director of Transcrime, asked why piracy has developed in Africa. Dr. Savona noted the impact that external factors had on the formation of criminal groups, for example the role pollution of sea waters has had in the formation of Somali pirate groups. Other factors included the failure to engage with local authorities, which he admitted was not an option in Somalia, and the uncertain legislation and infrequent convictions that face pirates. He concluded by noting a number of practical remedies designed to reduce the financial motives behind piracy, such as implementation of best practice on board ships to make hijacking harder.

The third speaker turned to the presence of foreign transnational criminal organizations in Africa. Charles Goredema is a Program Head for the Institute for Security Studies in South Africa. He noted that the term "actors" had to go beyond natural persons but should also include corporations and other organizations. For Mr. Goredema, African criminal markets involve regional actors in Africa that connect to foreign actors for different reasons. For example, the trafficking in wildlife teams African criminal groups with groups from the U.S., France, Saudi Arabia, Pakistan, China, Germany, North Korea and elsewhere, while the theft of marine resources involves fishing companies and criminal entrepreneurs from China, Western Europe and South Korea. Responding to the growth of transnational organized crime in Africa would require not just better laws, training and research but also an increased focus on the proceeds of crime.

The last two speakers took up the subject of African transnational criminal organizations operating outside the African continent. First was Lieutenant Colonel Rubino Tomassetti of the Carabinieri's Special Operations Group in Italy. Colonel Tomassetti noted the speed at which African criminal organizations have moved into Italy, merging with local Italian criminal groups to form what he called "integrated international criminal systems." From an analysis of case files, the majority of African criminal organizations in Italy hailed from northern region of Africa and Nigeria. For example, Operation Viola resulted in 137 arrested in Italy for human trafficking, migrant smuggling and drugs charges and was centered on trafficking through Nigeria. From his perspective, one of the most significant challenges was the lack of international cooperation, especially among legal and judicial systems, and he felt that joint investigations were the best way to proceed.

Professor Jay Albanese of Virginia Commonwealth University in the United States rounded out the panel with a broad view of Africa's role in transnational organized crime. He noted that Africa has strong illegal market links to Europe, South American and Asia. In the United States, much of the emphasis from African criminal organizations lies on sophistical financial frauds and the theft of natural resources like ivory. His suggestion on how to move analysis of this topic forward was to avoid the trap of mapping ethnic criminal groups and focus more on mapping the criminal markets and identifying common commodity flows across them. Identification of high risk markets would naturally lead to the identification of the major criminal actors. He concluded by noting four factors that would prove useful in the development of a risk assessment tool: regulators and law enforcement, market conditions (supply and demand) and competition.

The second panel was titled "Smuggling." The chair of the panel was Kristiina Kangaspunta, the Executive Officer of the Applied Research Program for the United National Interregional Crime and Justice Research Institute in Italy. The panel largely sought to map out criminal markets operating in Africa as well as identify trends within these markets. The first panelist was Andrew Cuming, the Liaison Officer to Italy and Malta of the Serious Organised Crime Agency (SOCA) of the United Kingdom. Mr. Cuming's focus was on the drug trade in Africa, a growing problem for the continent. He started by noting that technology was helping drug traffickers to penetrate Africa at a rate not seen before. For example, drug traffickers were using planes to establish transit hubs deeper inside Africa, and had also used telephone call analysis software to identify informants within their organizations. Corruption also played a significant role in the expansion of the drug trade in Africa. Mr. Cuming noted that besides helping the trade directly, corruption was also undermining efforts to use development aid to counter the drug trade. For example, the numerous checkpoints found in some African states resulted in bribe-paying that further interfered with the implementation of alternative crop schemes. Concluding, he noted that SOCA is partnering with a number of African countries, especially those in West Africa, to improve the response to drug trafficking. For example, in 2008 a tip from SOCA allowed authorities in Sierra Leone to intercept a 600 kilogram shipment of cocaine abroad a small plane arriving from Venezuela.

The second speaker focused on the topics of human trafficking and migrant smuggling in Africa. In her opening remarks, Tal Raviv, the Regional Program Development Officer of the International Organization for Migrant in Kenya, noted the key difference between these two forms of crime. Trafficking is a crime against the individual while smuggling is a crime against the state. She also discussed the widespread nature of trafficking. Africans are trafficked within Africa as well as to Europe, the Middle East and the U.S. She then moved

on to discuss migrant smuggling, providing statistics that confirmed migrant smuggling is a significant issue. For example, more than 32,000 migrants in Yemen were found to be from the Horn of Africa, and at least 17,000 men had been smuggled from eastern Africa to South Africa. Signaling a theme for this panel, she concluded with a discussion of the role corruption plays in maintain migrant smuggling in Africa.

The final panelist was E.J. Hogendoorn, the Director of the Horn of Africa Project for the International Crisis Group in Kenya. Mr. Hogendoorn noted that arms trafficking is generally a low intensity form of transnational organized crime. For example, in the Horn of Africa, arms trafficking remains limited due to the lack of resources in the rebel groups. Yet arms trafficking is more pernicious than other forms of transnational organized crime as it fuels not just criminal organizations but insurgencies such as those found in the Democratic Republic of Congo, Ethiopia, Uganda or Sudan. For example, Kenya reported a ten-fold increase in cattle rustling since the early 2000, a rise due in large part to the increasing availability of small arms. This then fed a vicious cycle as pastoral herders needed to arm themselves to protect their herds. In analyzing the arms trade, Mr. Hogendoorn also noted the legal, illegal or gray market (i.e., legal arms transferred under bogus documentation) and the illicit market. He concluded by noting that fighting arms trafficking in Africa requires many of the same responses that are needed elsewhere in the world. These included international standards for licensing and documentation, transparent licensing authorities, greater regional coordination, and of course higher levels of political will.

The third panel, titled "Fraud and Financial Crimes," was chaired by Professor Stefano Manacorda of the University of Naples Federico II in Italy. The panel was separated into two topical groups. The first group, consisting of two speakers, focused on the relationship between corruption and transnational organized crime. The first speaker on this topic was Francesco Greco, a Public Prosecutor in the Court of Justice in Milan, Italy. He noted that the improving economic prospects of African economies were driving an unintended consequence: higher levels of corruption. He then pivoted off this point to discuss his belief that developed states are driving corruption in Africa since corruption takes place between two parties and the contractors do not want to report themselves. He therefore tabled the idea that it is the responsibility of developed states to fight corruption in African through such measures as tracking corporate funds that can pay bribes or examining consulting contracts with local brokers, which are often used to pay bribes to officials. Other proposals that Mr. Greco had for developed countries included building political will that supports the independence of judges that can investigate corruption, harmonizing legislation on corruption and corporate regulation and improving international judicial cooperation.

The second speaker was Professor John Heilbrunn of the Colorado School of Mines in the United States. He focused his remarks on a broad examination of the state of the state in Africa and its relationship to corruption. Singling out African countries with high levels of corruption as "kleptocracies" or criminalized states was hyperbolic given that such corruption is found in other countries around the globe. Rather, the focus on state capture should lie on the practice of illicit and non-transparent forms of influence to shape legal processes. He also noted that there is a culture of impunity when it comes to corruption in Africa, and corruption relates to the low levels of state construction in Africa. He concluded by saying that while transnational criminal organizations use corruption to divert the attention of public officials and co-opt public officials, it does not appear to be a form of state capture in Africa.

The second group of four speakers on this panel focused on financial crimes and forms of fraud in Africa. Leading off this group was Olaolu Adegbite, Head of the Advance Fee Fraud Section of the Economic and Financial Crimes Commission (EFCC) of Nigeria. He started with a detailed discussion of how fraud is a threat to national security, commerce and political stability, providing a number of examples drawn from financial and identity documents that the EFCC has seized in the past. Next were trends that were being observed in fraud, including the adoption of using mules to smuggle bulk cash across borders and the use of postal services to avoid detection through financial transfers. After discussing some recent EFCC operations, he concluded that the best way forward included vigorous regional law enforcement cooperation, strong cooperation with the private sector and improved ability to verify identifies through national and regional databases.

The next speaker was Murray Mitchell, who is the Head of the Financial Intelligence Center in South Africa. The focus of his unit has shifted its focus from money laundering to illicit economies. He provided statistical evidence that criminal proceeds and corruption were significant problems, and that South Africa's role as an economic and financial hub contribute to its centrality in the illicit economies of Africa. Among some of the trends that he discussed, Mr. Mitchell noted that while some of the proceeds of illegal poaching, advanced fee fraud, identity theft, and other forms of transnational organized crime are heading offshore, criminals are also making investments in property and travel services in Africa. He also said his unit sees flows of moneys from transnational organized crime in Europe into South Africa, most often to purchase property. In his opinion, any response to transnational organized crime would require a coordinated approach among government agencies, including intelligence-led multi-agency teams, and would also involve international cooperation.

The third speaker of this group shifted the focus from financial matters to the issue of fraud. Professor Jeremy Wilson of Michigan State University in the

United States looked at the issue of pharmaceutical counterfeiting. He began by reviewing some statistics that confirm the considerable economic impact of counterfeit medications. For example, South Africa estimated its annual cost for counterfeit drugs at $260 million. Aside from lost sales and tax revenue, Professor Wilson also noted other economic harms due to counterfeiting in the pharmaceutical industry, such as lost innovation, stalled growth and missing jobs. Then there are the costs associated with anti-counterfeiting measures such as public education campaigns and enforcement efforts. Yet harms are not limited to economic costs. Significant issues have arisen from counterfeits entering the public health system, with one estimate citing 700,000 deaths attributed to counterfeit malaria and tuberculosis drugs. In the end, Professor Wilson suggested that more research was needed to provide a more evidence-based response.

The final speaker was Andrew Standing. As an independent researcher in Kenya, his focus lies on the illicit harvesting of natural resources in Africa. The scale of natural resources and environmental crimes are significant and can be far more problematic to individuals in African than illegal drugs. He noted that transnational organized crime was deeply involved in embezzlement, fraud and theft schemes associated with natural resources. Examples include embezzlement and transfer price schemes in the oil and gas sectors, the smuggling of extractive resources, illegal logging, fraud associated with climate change mitigation strategies, poaching of wildlife, and illicit fishing. He concluded with the suggestion that experts should approach these as illicit markets, mapping out not only the criminal actors but also the complicit government and private sector entities that benefit as well.

The final panel was a roundtable discussion focused entirely on responses. David Luna, the Director of Anticrime Programs in the Bureau of International Narcotics and Law Enforcement Affairs of the U.S. Department of State, chaired the panel. The first presentation from Peter Bishop, the Head of Operations for the Special Investigating Unit in South Africa, discussed the role of the state in the response. He opened by noting that strong political will behind efficient government structures cooperating internationally are needed to fight corruption and transnational organized crime. He demonstrated this by deconstructing the complex activity levels for the illicit harvesting of natural resources, which he fashioned as a value chain that began at the very local level and extended into the international realm. The response to such complexity resides in an interagency team with the capability to reach out to and work with international partners on specific cases. Concluding with a series of specific responses, Mr. Bishop noted that countries must establish regional and global priorities and strategies that best harness state capacities to intervene the value chains of illicit markets. Other responses included stronger regional and global responses, public-private partnerships with corporations and private experts, and the ability to measure successes and report on them.

The next speaker was Marie-Flore Kouame, a Trial Attorney with the U.S. Department of Justice, who also engaged the topic of state responses. Her remarks focused on how the U.S. Department of Justice (DOJ) promotes international cooperation on practical issues. For example, the Office of Overseas Prosecutorial Development, Assistance and Training engages in capacity building around the globe and has Resident Legal Advisors stationed in 27 countries to coordinate criminal justice cooperation. She also noted that DOJ's Computer Crime and Intellectual Property Section is quite active in Africa, providing such services as legislative reviews, task forces and technical assistance. The focus of these programs is on results in the host country that involve the development and use of skills by host country criminal justice practitioners. She also provided a lengthy list of challenges that can impede international cooperation:

- Lack of a shared strategic vision among donors of technical assistance;
- Lack of coordination among donors;
- No request for accountability within technical assistance programs;
- Little to no investment from the host country;
- Lack of political will;
- Little to no continuity in institutional knowledge among program participants;
- Corruption is an issue but often not a pervasive one;
  Issues arises from substandard or missing infrastructure.

She concluded by noting that the employment of creative solutions to solve difficult problems, building on advanced skills that already exist in a number of criminal investigation units in Africa, are both optimistic signs for the future of Africa when it comes to transnational organized crime. She also noted the importance of fostering political will and patriotism when it comes to thwarting the influence of corruption.

The theme of technical assistance was taken up by the next speaker, Salvatore Siena. As the Deputy Chair of the External Working Group of the European Police College (CEPOL), Mr. Siena has firsthand experience of how regional organizations can provide assistance to countries fighting transnational organized crime. A European Union agency, CEPOL utilizes its network of national police academies to train senior police officers and develop a European approach to the main problems facing member states with a special attention to the cross-border elements. In order to accomplish this, CEPOL uses courses and seminars, common curricula, an exchange program, e-learning and research activities. Mr. Siena concluded with a discussion of the Stockholm program, a five year plan that focuses on building cooperative relationships between member

and external states, and how it has an African emphasis with a joint strategy and action plan for addressing transnational organized crime in West Africa.

The next speaker, Kwesi Aning, is the Head of the Conflict Prevention, Management and Resolution Department of the Kofi Annan International Peacekeeping Training Center in Ghana. Continuing on the theme of regional organizations, Mr. Aning noted that both the African Union and ECOWAS have defined narcotics as the most serious threat to the stability of African states and have put into place regimes to focus on this. This is in part the result of an international network of civil society organizations that are engaging political leaders to get them to respond to this issue. He then turned to his own organization, which is one of seven peacekeeping centers in Africa. The importance of the Kofi Annan center is that it is developing and sharing norms among attendees to the center, who are often police officers from across West Africa. After discussing the training regime in more detail, Mr. Aning noted that the center will partner with those who are willing to engage them in an open minded manner.

The next speaker was Liugi De Martino, the Project Coordinator for the Geneva Declaration at the Small Arms Survey, who discussed the role of international organizations and other multilateral responses. Mr. De Martino discussed the work of the Small Arms Survey in Africa. As a multilateral response to the trafficking in small arms, he discussed the importance of the Geneva Declaration of 2006. His organization has sponsored a number of diplomatic meetings. He also noted the important of research, noting the work that the survey has done to make transparent the flows of arms into and within Africa. Looking ahead, Mr. De Martino noted that the Small Arms Survey will expand their diplomatic efforts and will continue their measuring and monitoring in Africa.

The final speaker was Debra Budiani, the Founder and Executive Director of the Coalition for Organ Failure Solutions in Egypt. Bringing in the perspective of nongovernmental organizations, she began by discussing the trafficking in human beings for organ transplants as well as the trafficking in human organs and tissues. She next turned to the roles that a nongovernmental organization can play to the response to transnational organized crime. Examples included prevention programs, policy reform efforts, public awareness campaigns in target groups and survivor outreach. The strength of a nongovernmental organization lies in its ability to identify victims, to provide transparency from below and to report findings. She concluded with some of the challenges that face nongovernmental organizations, including the difficulties they have in fomenting political will and in reporting findings without threatening the program's operations.

KEYNOTE ADDRESS

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Deputy Director/Officer-in-Charge, Division for Treaty Affairs, and Chief, Organized Crime and Illicit Trafficking Branch, United Nations Office on Drugs and Crime-UNODC

It is with great pleasure that I return for the third time to deliver the keynote speech to this important international conference. Once again, there is an impressive range of speakers. Their wealth of experience in the different areas of organised crime in relation to Africa will no doubt provide us with great insights into this serious challenge. I encourage all of us to discuss the issue from all the angles, as foreseen by the organisers, and also to suggest innovative approaches aimed at provoking fruitful discussions, thus ultimately advancing our common cause.

Let me start by saying that we should – wherever possible – refrain from discussing a continent as varied as Africa in generalising terms. Conditions vary considerably between countries and so must the solutions we identify to improve things. Nevertheless, Africa is arguably the poorest and least stable continent on earth. Out of the 30 countries with the lowest Human Development Index as calculated by the United Nations, only 2 are not in Africa[1]. The continent and its peoples have been exploited by colonial powers in shameful proportions. Following independence, many countries have been marred by prolonged civil conflict or further been abused by kleptocratic elites that merely continued the exploitative regimes put into place by colonial masters. Malnutrition and disease are endemic in some States. And recent research shows that negative consequences of climate change are likely to affect Africa disproportionally.

On the other hand, very positive developments are taking place on the continent, often ignored in the mainstream discourse. The number of conflicts is decisively lower than 20 years ago. The income per capita has increased from $150 to $1,600 since the 1960s – a tenfold increase (though without accounting for inflation)[2]. Life expectancy has improved modestly from 41 to 54 years in the same period. Elections are held in more countries than ever before and civil society is growing stronger, doing a better job of holding their leaders accountable and demanding better services. International investors are

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[1]   Haiti and Afghanistan.
[2]   In 2000 US$ it has increased from $500 to $900.

increasingly taking advantage of the new opportunities the continent holds, while a truly entrepreneurial middle-class is emerging in many countries, providing employment and income to millions of families. Intellectual elites are at the same time criticising their countries' dependence on foreign aid and call for a new era of home-grown development.

All these facts give us reasons for hope. But intelligence sources – and UNODC's own research – also show that this optimism is under serious threat – that threat is from organized crime. I will first outline the nature of this threat, second Africa's structural weaknesses in responding to this threat, third, I will review the various groups involved in organised crime, fourth the impact it has on the continent, and finish by identifying areas for response by the international community.

The Threat

Today, organized crime is not so much a group of individuals who are involved in a range of illicit activities, but more correctly viewed by flipping it around – a group of illicit activities in which some individuals are presently involved. If these individuals are arrested and incarcerated, the activities continue with new criminals filling the void, because the market and the incentives it generates remain. The groups that emerge to satisfy illicit markets may have no relationship to one another, so the destruction of any given group represents more an opportunity than a deterrent to the remaining groups. The key to defeating organized crime, then, is to disable the markets by making it structurally more difficult for criminals to develop their organized criminal enterprises. The first step in this process is to understand the markets.

Africa has become afflicted with the disease of organized crime because its immunity is low (that is, its institutions are often weak), but the pathogens themselves are mostly foreign in origin. The continent is caught up in illicit commercial flows facilitated by locally-based criminal syndicates. In each case, at least one component of the supply chain lies outside Africa. The problems are thus truly transnational and even transcontinental in nature.

For example, cocaine is trafficked in huge volumes from Latin America via West Africa to European consumer markets. Likewise, heroin is trafficked from Afghanistan via East and West Africa towards the United States and Europe. Counterfeit medicines, a major money-spinner, are produced in East Asia and sold to African customers – these frauds are sometimes deadly, but are also directly responsible for the development of resistances to anti-malarials or anti-infective medicines. Human beings are trafficked for sexual exploitation or forced labour, many of them ending up in Europe. Arms and ammunition are

smuggled into Africa and between countries, fuelling conflict. Untaxed cigarettes are imported in huge volumes and represent a safe way for criminals to make money. Natural resources, most notably oil, diamonds, gold, endangered species, or tropical woods are smuggled to the rich world, stealing the continents natural wealth. This list goes on and on, but the examples given show that the trafficking flows put an already fragile region at great risk. And by far the biggest risk associated with these trafficking flows is the immense amount of criminal money they generate, in some instances surpassing a country's GDP, not to mention the State's available budget to fight crime.

Structural Vulnerabilities

Africa has a number of structural weaknesses that make it attractive for organized crime. At the same time, these structural weaknesses are further reinforced by organized crime itself. This vicious cycle is arguably the biggest challenge in combating the phenomenon in the region, somewhat independent from the particular trafficking flow in question.

Although conditions vary, weak rule of law is certainly the most obvious vulnerability, manifesting itself as both "lawlessness" and "authoritarianism". The former describes a situation in which the State is too weak to enforce any laws, fuelled by poverty and ailing institutions. The latter depicts a scenario where a ruler or the elite abuses the state for personal enrichment and is thus "above the law". As a matter of fact, in either context, organized crime flourishes. Groups from the outside need only to buy off a few key officials in authoritarian States in order to operate with impunity. In many cases, the authoritarian government itself operates as an organized crime racket. In more democratic but equally poor countries, outsiders can negotiate with "strong men" or "war lords" in uncontrolled areas. Left to their own devices, neglected or insurgent areas develop similarly authoritarian governance structures, protection rackets run by the most fearsome, who rise to their positions of prominence through payoffs, violence and intimidation. The local thugs, be they within or without the government, can integrate into the global criminal economy by offering some degree of predictability, under the smoke screen of domestic chaos.

A dysfunctional criminal justice system is the symptom of this state of affairs. In some countries, this ranges from poor law enforcement and unprofessional prosecution, to a corrupt judiciary, to inhumane prisons. When identifying solutions to these problems, the underlying mechanisms should not be disregarded.

The colonial borders inherited by the continent are certainly a legacy

that contributes to weak rule of law institutions. Nation States have been established in disregard of the historic, ethnic, religious and geographical context and have created State constructs that were not really viable from the start. The absence of an emotional identification with the nation State and its incapacity to deliver services to its citizens has further lead to an erosion of the State as holding what Max Weber called the legitimate "monopoly of violence". Alternative arrangements of social organisation have therefore emerged in compensation – and these are more easily exploitable by organised crime. In many countries this plays a major role when trying to fight the threat with institutions of the State. Twenty years of civil war, combined with exploitation by the government, might well make a Sierra Leonean officer think twice before risking his life for "his country". Smuggling between Togo and Ghana is defined as such by a border – yet for generations before the border existed, this was simply an exchange between members of the same family, speaking the same local language, living on both sides of what is now an international border.

Poverty is another facilitating factor – it means plenty of cheap foot soldiers are available to perform all sorts of tasks for organized crime groups. In the case of West Africa, it is not surprising that a virtually endless supply of couriers is available to ingest up to 1 kilogram of cocaine and transport it to Europe. Around $3,000 dollars are paid for taking this risk, often representing more than the average annual income.

Lastly, endemic corruption in many parts of Africa is a facilitator for organized crime. Much has been said about the difficulty of conceptually defining the phenomenon and the need to differentiate between street-level bribes and white-collar theft. But it is clear that corruption is not only a cause, but a symptom of the challenges we are facing.

Involved Groups

The actors involved in organized criminal activities in Africa are as varied as the goods being trafficked through the continent and they will be discussed at more depth this afternoon. Foreign nationals, for one reason or another, often specialise in a particular commodity: for example Latin Americans in cocaine or Chinese Triads in abalones. West African organised crime groups are highly flexible and often project-based, meaning that alliances are sought for particular projects. The absence of any hierarchical structure makes it extremely challenging for law enforcement to investigate such groups and they are quick in adapting to new trends of making money. The existence of a global diaspora further makes these groups capable of stretching operations from source over transit to destination country, thus controlling a significant share of the added value.

Impact

While it is important to understand the dynamics, we are mostly concerned by the negative impact organized crime has on Africa. All solutions should be oriented towards reducing the harm that is done by the various criminal groups. The same vicious cycle I highlighted earlier applies here: the effects caused by organized crime are at the same time fuelling its existence. Globally speaking, Africa is suffering from organized crime at the human, social, political, and economic level.

The human costs are most obvious: Drug transit countries breed their own consumers, predominantly due to the fact that local intermediaries are paid in merchandise rather than cash and look to turn their share into financial gain by selling to local populations. Although it is always difficult to have proper estimates, the deaths attributed to counterfeit medicines are estimated at being equal to the malaria-induced deaths – 500,000 people per year – and Africa is particularly affected. Human beings are trafficked for sexual exploitation and forced labour – treated as merchandise.

At the social level, sustained and widespread violence can often be directly linked to the existence of organized crime groups. Where business partners cannot rely on the criminal justice system to resolve conflict, they resort to violence. Competition for turf is not dealt with through corporate strategies, but guns. Numerous examples from Africa evidence how civil conflict has been prolonged over the access to criminal gain, be it "blood diamonds", oil or cocaine. Guinea-Bissau, a tiny country in West Africa heavily affected by the cocaine trade, has seen various coup attempts, the killing of the president and the head of the armed forces, all arguably linked to cocaine deals.

The most negative impact of organized crime, as I have said, is the further deterioration of the rule of law. Criminal activities are in many instances so profitable that they generate more money than entire countries' legitimate GDP. Elections can be bought, law enforcement, prosecutors, or judges corrupted. Once established in an area, organized crime does not cede power willingly. Left untreated, it can hollow out governance until only a shell remains. In places where the institutions were weak to begin with, this process can be remarkably fast. All the usual trappings of sovereignty – territorial waters, diplomatic passports, diplomatic pouches, immunity from prosecution, military facilities, even the State financial apparatus – can be exploited for criminal purposes. Whether organized criminals take formal control or not is ultimately of little consequence. The end result is the same: democracy is subverted and a small group of ruthless people make all the decisions that matter.

Lastly, the economic impact of illicit financial flows should not be underestimated. A significant parallel economy leads to economic

destabilisation. Unexpected changes in a country's exchange rate – often only explainable with money-laundering – make investments insecure and distort economic activity. In some countries, colluding with criminals can become the biggest game in town, crowding out all licit economic activity. This economic monoculture further feeds bad governance, a problem often described as "the resource curse". Since most national revenue derives from these sources, there may be little pressure to develop a broader tax base. In effect, the government is not reliant on the public for its income, and does little for it as a result. The net result is few incentives to govern well; the day criminal groups are moving their activities to another country the entire national economy shakes.

Response

I am sure all the points mentioned above will be discussed at much more depth over the coming days and I have scratched only the surface of these various areas of concern. Let me thus finish by talking about the international community's efforts to transform the vicious cycle of underdevelopment and organized crime into a virtuous one. UNODC has traditionally phrased its work as *fighting* drugs, crime, and terrorism. We are now turning this conceptually around by *promoting* peace, security, and development. And it is in this context that we are suggesting four concrete areas for international intervention:

1.   *Strengthening States and the rule of law:* The international community has a vested interest in preventing African States from failing and becoming a safe haven for criminal and terrorist activity. This means concretely we must work towards clear political commitment, modernise legal framework to effectively fight organised crime, taking into account the provisions in the various UN Conventions. We must reinforce the criminal justice chain by strengthening the institutions of law enforcement, prosecution, the judiciary, and prisons sector. This is to immunize the continent from the pathogens that are, as mentioned above, mostly foreign in origin.

2.   *A transnational challenge demands a transnational response:* Since crime has gone global, purely national responses are inadequate: at best they displace the problem from one country to another. Regional and international responses are enabled by the United Nations Convention against Transnational Organized Crime (UNTOC). States have to look beyond their borders to protect their sovereignty. In the contemporary globalized world, jealously guarding sovereignty makes States more, rather than less vulnerable. If police stop at borders while criminals

cross them freely, sovereignty is already breached – actually, it is surrendered to those who break the law.

3.   *Focus on intelligence* – in all senses of the word and at the national, regional, and international level. We need information for threat assessments, to analyse trends, and to enable evidence-based policy. There must be greater capacity to collect and share intelligence in order to properly investigate organized crime. We need a better understanding of and fresh thinking about organized crime at the academic and Think-Tank levels. That's why UNODC has focused more on identifying the push and pull factors, and not just on the criminal groups. It is essential to remove the incentives to crime, not just the criminals. Focusing only on law enforcement never worked and never will effectively do so.

4.   *Go after the money:* Since criminals are motivated almost entirely by profit, the key is to make it structurally more difficult for them to access and use their ill-gotten gains. That means not only strengthening the anti money-laundering regimes and control mechanisms in individual States, but also lobbying for an end to tax havens and offshore financial centres that are at the core of the worldwide illicit financial flows.

I have deliberately tried to cover a lot of ground, and at times to be provocative, in order to try to generate debate and fruitful argument over the next two days. It is always a pleasure and an honor for me to attend this conference, and to see so many friends and colleagues.

Part I

THE ACTORS

Chair
PIERRE LAPAQUE
Officer-in-Charge, Implementation Support Section (ISS), Organized Crime Branch, Division for Treaty Affairs, United Nations Office on Drugs and Crime-UNODC

The opening session of the conference focused on those who perpetrate and facilitate transnational organized crime in Africa. Transnational organized crime is a term that applies equally to actors and activities. Starting with actors who are involved in these criminal enterprises brought forward some important themes at the start of the meeting. For example, focusing on organizations drove home the fact that organized crime in Africa is a truly transnational affair comprised a diversity of local and foreign actors.

In this opening panel, the organizers asked the speakers to consider those actors that comprise transnational organized crime in Africa. The speakers focused on African criminal organizations and how they operate in different regions of Africa as well as other parts of the globe. The papers identified the origins of these groups and how globalization has facilitated the global impact of these groups. The panelists also looked at how foreign transnational organized crime groups are collaborating with African groups or operating in Africa outright. Last, the panel also introduced some ideas of how to respond to transnational criminal groups in Africa.

A number of key themes arose from this panel. First was the striking diversity of actors operating within and outside Africa. The presentations noted that one of the best lenses on understanding the actors that comprise transnational organized crime is to focus on the various criminal markets in Africa. For the speakers, diversity was found not only in the geography of actors but also their residence in either the licit or illicit economy. Drug trafficking offers a useful example. African drug trafficking markets are comprised of a significant number of actors from inside African countries, including local farmers, corrupt officials, fishermen and couriers. Yet these markets also contain a diverse lot of actors from countries outside of Africa. In sum, transnational organized crime in African involves actors from around the globe and from professions that are seemingly legal as well as those blatantly illegal.

The panel also identified a central tension in the analysis of transnational organized crime: analysis of actors cannot happen devoid of their context. The speakers on this panel, for example, noted the influence of the

societies, histories, cultures and countries that comprise Africa on the formation and operation of transnational organized crime groups. For example, oath taking and the use of multiple names were routinized practices for African organized crime groups and were central to understanding them. Likewise, the absence of social welfare in some African states appeared to serve as a breeding ground for transnational organized crime and other groups. For example, Al Qaeda in the Magreb's provision of social welfare is a key tool for recrutment. Lastly, these actors coalesce around criminal markets, and thus it is important not to separate the two. By focusing on the market, analysts can demonstrate that actors are not just individual criminals or crime groups, but also include legitimate entities that wittingly or unwittingly participate in these criminal enterprises. The focus on markets allows for a discussion of the fact that individuals, small groups and significant transnational criminal organizations all have roles to play in these enterprises, further supporting the aforementioned discussion of diversity.

AFRICAN ACTORS IN INTERNATIONAL ORGANIZED CRIME

PETER GASTROW
Senior Fellow and Director of Programs,
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It may be coincidental, but those African criminal networks that originate from those parts of the continent with a long history of trade and barter appear to be the ones that have been most successful in competing in and penetrating global criminal markets. The ancient trading routes in West and North Africa and the centuries old trading ethos associated with them, may well have been a contributing factor, however small, to the rise of West African criminal groups into global prominence[1].

However, the oldest identification of African trade routes does not relate to West Africa but stems from an Egyptian maritime merchant who plied the waters of Africa's East Coast during the first century CE. He compiled a trading guide that shows that the East African coast has long been part of trade networks spanning the Indian Ocean and the Mediterranean Sea. Maritime trading routes from Egypt down the African East coast to as far as modern day Tanzania are described[2]. Trade links were also established with merchants from Arabia and India who visited the East African coast to exchange commodities such as iron, fabrics, and flint glass for gold, ivory and slaves. Coastal towns were established from Somalia to northern Mozambique. Sporadic trade with communities in the interior of East Africa seems to have developed much later.

While the trading routes covering North and West Africa may have developed after the trading establishments along East Africa's coast, they were extensively used and linked a series of well-established towns and cities in West Africa with trade and exchange over centuries. These trade routes developed from the north to the south across the Sahara and included routes from West Africa that connected with Alexandria in Egypt. From about the seventh century

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[1]   "West Africa's International Drug Trade", African Affairs, Oxford University Press, 2009, 108/431, 171-196, at 195. Stephen Ellis links the success of Nigerian criminal groups over the past fifty years to, amongst others, new patterns of international migration, but more specifically to the establishment of "shadow state networks" by Nigerians during the structural adjustment period of the1980s.

[2]   The *Periplus Maris Erythraei* (or 'Voyage around the Erythraean Sea') *http://depts.washington.edu/silkroad/texts/periplus/periplus.html*

onwards, caravans that crossed the Sahara exchanged commodities such as salt for gold from West Africa.

Early West African trade routes[3]
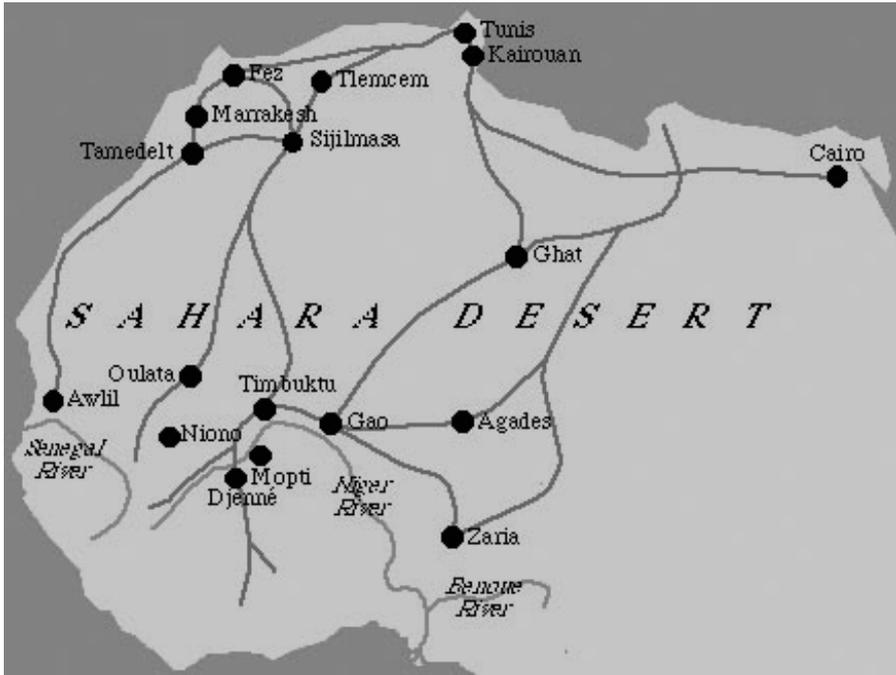
The sub-sahara interior, as well as Southern Africa, were much less exposed to early trade routes and practices. Population densities in these areas were low and markets not profitable. In addition, traders who could cross the Sahara with their camels found the Central African rain forests insurmountable, preventing them from expanding their trading routes further south.

Until the Portuguese navigators sailed around the Cape of Good Hope in the fifteenth century, Southern Africa remained relativley unaffected by the trading practices that had developed in West Africa and along the East coast of the continent.

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[3]   *http://www.mrdowling.com/609-trade.html*

Current African actors in international organized crime (IOC)

The term "international organized crime" is here used synonymously with "transnational organized crime". The former seems to be preferred in the United States while the latter is the term contained in the United Nations Convention against Transnational Organized Crime. Debates about an appropriate definition for organized crime continue amongst both practitioners and scholars but for the purpose of this presentation the 'description' of organized crime as set out in Section 2 of the UN Convention will apply. Simply put, when three or more persons collaborate to commit serious crimes over a period of time for profit, they are involved in organized crime. Organized crime in Africa is seriously under researched. While a knowledge base of how West African criminal groups operate has been built up over the past thirty years because of their presence on all continents, this has not happened in relation to the many other African criminal networks that are active on the continent.

International organized crime actors are often identified on the basis of their nationality, ethnicity, or their cultural links. Some analysts prefer to focus on their geographic origin, or the nature of the criminal activity or the criminal market they are involved in, or a combination of these. As this presentation focuses on Africa and its sub-regions, the main actors involved in organized crime organized will be identified by relying on a combination of their geographic and national origin plus the illicit commodities they trade in. The focus will be on three sub-regions, namely West Africa, East Africa, and Southern Africa.

African actors in West Africa

Three broad categories of West African international organized crime actors will be mentioned briefly, namely (1) conventional West African criminal networks, (2) criminal networks involving state actors, and (3) smaller ethnic/rebel groups and groups linked to terrorism.

1. West African criminal networks

West African criminal networks, predominantly Nigerian but also from Ghana, Cameroon, Guinea and other West African states, have over the past fifty years developed into some of the most sophisticated and successful global criminal organized crime actors. They are known to be highly efficient, flexible and adaptable, difficult to penetrate, generally non-violent, and driven by a strong entrepreneurial spirit. The head of UNODC in West Africa has commented on the

astonishing nimbleness of drug traffickers in West Africa, who seem to pick up and discard routes and countries spontaneously. He noted that Nigerian gangs have begun to assert more control over the front end of the process and also increasingly dominate — and profit from — the delivery of drugs that arrive in West Africa to Europe, whether by sea or air[4]. In his study into West African involvement in the international drug trade, Stephen Ellis concluded that:

> In purely technical terms, the emergence of the drug trade in West Africa over a period of fifty years or more is an astonishing feat. West African traders, with Nigerians in the forefront, have created for themselves an important role in a business characterized by competition that is cut-throat – literally – and by high profits. They have penetrated drug markets in every continent.

Cocaine trafficking: Some of the sea and air routes used by West African networks
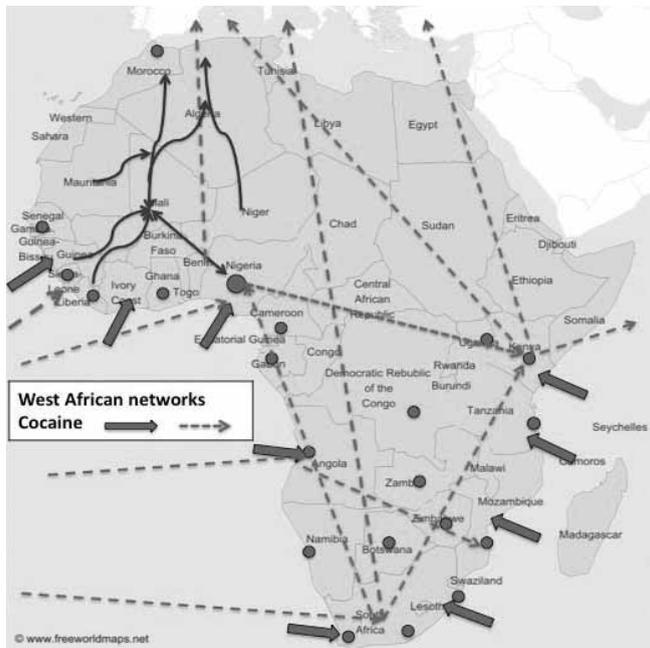
The above map is indicative only as the number of cities in which West African networks operate in Africa and the trafficking routes that they use, are far more extensive than indicated in the map.

While West African criminal groups clearly play a prominent role in international drug trafficking, they are also involved, amongst others, in the smuggling of migrants, trafficking of women and children, 4-1-9 scams, arms trafficking, and the smuggling of counterfeit commodities such as counterfeit medicines. Membership of their networks is not always confined to West African nationals. While the leading figures will be Nigerian or nationals from other West African states, the effective functioning of their criminal activities sometimes makes it necessary to include non-West Africans. For example, in July 2010 Nigerian police arrested five persons after the seizure in Lagos of 450 kilograms of cocaine. Three were Nigerian nationals, one a Chinese and one from Taiwan[5]. In other African countries such as Kenya or South Africa, West African networks sometimes recruit local criminal actors into their networks.

2. State actors in West Africa

In West Africa and in other parts of the continent the more established criminal networks frequently target and "buy" senior state officials including police officers, judges, transport and harbor officials and politicians in order to enhance their political protection, to limit competition, and to gain access to information. Such "recruitment" tends to go hand-in-hand with high levels of corruption. While not many senior state officials who have links with criminal groups are part of their core trafficking activities, they are expected to use their positions to facilitate the work of criminal networks such as trafficking. For example:

- In June 2010 a Lagos court sentenced the former Chairman and Chief Executive Officer of the National Drug Law Enforcement Agency (NDLEA) to sixteen years imprisonment after he was found to have improperly released a suspected drug trafficker from prison and diverted large sums of money for his personal benefit.
- The National Judicial Council of Nigeria suspended a serving judge of the High Court from office indefinitely on allegations of bribery[6].

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[5] "N4bn Cocaine: Two foreigners, 3 Nigerians arraigned": THISDAY, Lagos, 17 August 2010.
[6] "NJC suspends judge over bribery", Punch, Lagos, 22 July 2010

- According to a US Embassy cable from June 2009 published by The Guardian, the President of Ghana told the US Ambassador that elements in his government were compromised and that officials at the airport tipped off drug traffickers about operations there.

3. Rebel and other groups

West Africa and the Sahel have come under increasing international attention as a result of an increase in terrorist activity but also as a result of an increase in the smuggling of illicit commodities such as drugs through the Sahel to North Africa. Some of the smuggling routes from West Africa to North Africa are under the control of local groups, including rebel groups in Northern Mali, or Tuaregs in Niger. Drug smugglers pay protection money to these and other groups in order to pass through safely. There are indications that some of these groups have links to 'Al-Qaeda in the Islamic Maghreb' (AQIM), a group linked to terrorism, and that AQIM therefore profits from the drug trade through the Sahara[7].

AQIM is thought to have only limited involvement in drug smuggling but it has been linked to other forms of smuggling such as cigarette smuggling. It has also been know to charge a "tax" to other smugglers passing through areas under its control. The Sahel smuggling routes indicated in blue on the Africa map above are not exact and merely provide a general indication of where they are situated.

African actors in East Africa

In East Africa (loosely defined) a wide range of criminal networks are involved in international organized crime. Kenya is the economic hub in the region and the most attractive base for international organized crime groups. East African coastal cities such as Mombasa, Dar es Salaam, and Kismaayo (Somalia), and the Island of Zanzibar, are central to international illicit trafficking activities. Different actors are involved in different trafficking activities depending on the nature of criminal activities of the particular network in question. For example, West Africans tend to be the leading figures involved

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[7]   Joelle Burbank, "Trans-Saharan Trafficking – A growing Source of Terrorist Financing", Center for the Study of Threat Convergence, The Fund For Peace, Occasional Research Sites, Washington D.C., September 21, 2010

in international drug trafficking in East Africa. Those behind the smuggling of migrants and the trafficking of women and children tend to be mainly Kenyan Somalis. When it comes to more risky operational activities such the local distribution of drugs or acting as links for human traffickers in other countries, locals with knowledge of local circumstances tend to be engaged by the criminal groups. A brief look at four international organized crime categories will throw some light on the actors involved:

1. East African Drug trafficking syndicates

Kenya, Tanzania, Uganda and Somalia have increasingly become transit countries for trafficking heroin and cocaine to Europe, USA, China, and Turkey. Although volumes do not appear to be near those trafficked through West Africa, they are increasing. Although most of the cocaine and heroin entering East Africa is earmarked for onward shipment, local consumption of heroin – and to a lesser extent cocaine – has increased significantly in Kenya and Tanzania. Those involved in distributing the drugs at street level tend to be local East Africans.

According to intelligence sources, about ten international drug syndicates, consisting of between ten and twenty members each, are active in Kenya alone. Nigerian nationals head most of the international drug syndicates. Other syndicate members consist of nationals from Ghana, Guinea, Uganda, Kenya and Tanzania. These drug trafficking networks have contact persons (very often West Africans) in many African cities and in numerous countries of the world that serve as countries of origin or destination for the drugs.

International drug syndicates in East Africa and elsewhere are known to rely on bribery and corruption to establishing close links with senior government officials or politicians in order to enhance their political protection and access to government information[8].

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[8] Although this arose after the Courmayeur Conference, the Kenyan Internal Security Minister caused a stir when in December 2010 he named six members of parliament who were under investigation for drug trade related activities – one of them a former head of Kenya's anti-corruption agency. (Daily Nation, Nairobi, 23 December 2010)

2. East African Migrant smuggling and trafficking of women and children

Between five and ten small networks of mainly Somali Kenyans dominate these activities in East Africa although groups of Tanzanians, Ugandans and Somalis are also involved. In Kenya, the networks are often headed by what is referred to as a Mukhali, normally a respected figure in the community, who operates from within a legitimate business. The Nairobi suburb of Eastleigh and coastal cities of Mombasa and Dar es Salaam are the hubs for the traffickers.

The trafficking networks have links or agents in Mozambique, Zimbabwe, South Africa, Latin America, USA, Europe and Arab countries to ensure the smooth transfer of their human cargo to many countries of the world.

3. East African commodity smuggling networks

Foreign nationals play an important role in the international smuggling networks that smuggle electronic goods, clothing and counterfeit medicines into East Africa. However, Somali and Kenyan nationals form part of international criminal networks that smuggle cigarettes, counterfeit goods, motor vehicles, and small arms into Kenya across various borders in the region. Somalis and Kenyans are involved in smuggling sugar, small arms, and electronic goods across the Kenyan/Somali border. Al Shabaab, the militant Somali organization that has links to Al Quaida, is playing a role in smuggling these commodities from the Kismaayo port in Somalia into Kenya.

Criminal networks from Kenya and Tanzania, including politicians and senior government officials (as well as Al Shabaab links) are involved in smuggling large volumes of licit and illicit commodities through the Mombasa and Dar es Salaam ports without paying duty. This is an area in which politicians and senior government officials play a prominent role as port facilities are under government control and they are better placed to exploit their authority than would be the case for an outsider not in government service.

4. Miscellaneous international organized crime activities in East Africa

- *Smuggling ivory, rhino horn, and endangered species:* These are smuggled to the East by Kenyans, Somalis and Tanzanians on behalf of foreign-based international criminal groups.
- *Illegal timber:* This is exported mainly to China with the connivance of corrupt East African officials and assistance from local criminal groups in East Africa.

- *Maritime Piracy and money laundering:* Acts of piracy by Somalis in the Gulf of Aden are linked to international criminal networks that launder the funds through various cities and financial institutions in Africa and beyond. According to an IMF official, part of the inflow of about Sh164 billion (about USD2 billion) into the Kenyan economy that cannot be accounted for, originates from ransom money obtained by Somali pirates.

African actors in Southern Africa

African actors in international organized crime came to the fore in Southern Africa during the post independence period of the 1970s, and in South Africa, towards the end of the apartheid era in the 1980s. The opening up of former tightly controlled borders and the involvement of expatriates in cross-border smuggling of minerals (Congo), diamonds (Angola), or general contraband (Mozambique) contributed to the growth of cross-border criminal activities in the sub-region. In South Africa, the gradual collapse of the apartheid segregation laws in the 1980s, led to African criminal elements form outside the country establishing a foothold in what promised to be a major new potential criminal market. The first West African drag traffickers were identified in Johannesburg towards the end of the 1980s.

The increased involvement by foreign criminal groups in international organized crime in Southern Africa during the 1980s, for example by the West Africans, Chinese Triads, or Pakistani groups, led to local criminal networks going through steep learning curves in order to survive and to become more competitive.

Organized crime groups in Southern Africa are generally not highly structured or hierarchical in their makeup. Nor are they ethnically or racially homogenous. They tend to be loose evolving multinational networks that include members from different Southern African countries and members from different ethnic backgrounds. They are involved in a very wide range of criminal activities with the most prominent activities being the trafficking in drugs and in stolen motor vehicles. Trafficking in ivory and diamonds continues to be widespread in the sub-region. In addition, networks from within the sub-region are active in numerous other categories of cross-border organized crime[9].

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[9] Annette Huebschle: "Dispelling popular organised crime myths", Institute for Security Studies, Pretoria, *www.issafrica.org/iss_today.php?ID=1081*. For a comprehensive research report on organized crime in Southern Africa see: "Organised crime in Southern Africa – First annual review", Institute for Security Studies, Pretoria, *www.issafrica.org/uploads/OrgCrimeReviewDec2010.pdf*

1. International Drug trafficking in Southern Africa

Although the cocaine trade in Southern Africa is dominated by West Africans, nationals from all Southern African states are involved. Domestic groups are linked to them and have benefited from their experience. They have also benefited from the diversification by traditional drug trafficking syndicates into prostitution, financial scams (4-1-9s), credit card frauds, etc. Domestic consumption of cocaine has increased but the West African global network has made it possible to use Southern African states, particularly South Africa, as a transit hub for the transshipment of drugs to various parts of the world.

Heroin is imported from Pakistan and India mainly by foreign-based criminal networks. However, West African and domestic criminal groups in South Africa, Mozambique, and Tanzania distribute that portion of the heroin domestically that is not trans-shipped to the USA and Europe. Zanzibar Island on the East Coast of Africa has become a major a drug trans-shipment hub in Southern Africa.

2. Smuggling stolen motor vehicles in Southern Arica

The cross-border smuggling of stolen motor vehicles has been the most important factor that enabled domestic criminal groups to go through their 'apprenticeship' phase towards becoming international organized crime groups – albeit with a primary focus on the African markets. The smuggling of stolen vehicles, for which there was a market in every Southern Africa country, contributed to small criminal markets expanding into large and thriving criminal markets in many Southern African states and beyond. Truly Southern African networks of organized criminal groups have created their own illicit common market across the sub-region at a time when governments were merely talking about the possibility of creating one for licit business. The Southern African actors in international organized crime have come long way and are catching up with their West African and East African compatriots.

To illustrate the enormity of this illicit trade, South African crime statistic show that as early as 1990, 68 649 motor vehicles were stolen during that year in South Africa. Of these, approximately 30 890 were smuggled across South Africa's borders to neighboring states and beyond[10]. The smuggling of

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[10]   Peter Gastrow: "Organised Crime in South Africa: An assessment of its nature and origins" (Chapter: "The 1980s: Organised crime comes of age"), Institute for Security Studies, Pretoria, Monograph No. 28, August 1998. *www.issafrica.orgpgcontent.php?UID=15595*

stolen motor vehicles was then, and still is now, part of a broader trade involving cash and barter. Stolen vehicles were exchanged for small arms, precious stones, drugs, or counterfeit goods. As a result criminal markets and criminal networks in the sub-region expanded significantly.

Concluding comments

This presentation was confined to a narrow focus on African actors in international organized crime. The temptation to go beyond that and explore the nature and impact of international organized crime in Africa had to be resisted constantly. It was also not possible within the time allowed to deal with more than a few categories of African actors. Those involved in purely domestic organized crime could not be dealt with. This presentation therefore deals with only one small piece of a large jigsaw puzzle that makes up transnational organized crime in Africa.

African involvement in international organized crime has expanded rapidly from obscurity fifty years ago to a global presence now. The role of African actors remains little understood and poses major challenges to international efforts to effectively counter transnational organized crime. Attempts by the international community to address international drug trafficking in West Africa serve as an example. The challenges are enormous.

For some of the weak and fragile states in Africa, expanding transnational organized crime activities could be much more serious than merely posing a major challenge: it could be about their survival as a functioning state.

MARITIME PIRACY IN SOMALIA: DEVELOPING NEW SITUATIONAL PREVENTION TECHNIQUES

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From the 1980s the international community has shown a growing concern about sea piracy, as a consequence of a significant rise of the recorded attacks. The security of maritime routes is indeed a matter of concern for states, as well as for trade companies whose vessels face the risk of being attacked and either robbed of the entire cargo or hijacked for a ransom.

This paper analyses and explains the existing opportunities that drive pirates and discusses present and future remedies with a focus on situational prevention techniques. In the first paragraph areas where piracy is concentrated are identified, and factors that make these areas 'hot' are discussed. These areas are identified on the basis of available data on maritime piracy, which are reviewed in section 2, together with problems of reliability. These data are also at the basis of considerations in the third section, where trends of maritime piracy are examined, with a focus on attacks off Somali coasts. In sections 4 and 5, criminal opportunities for piracy are identified and discussed, and pirates' modus operandi is described, emphasizing the distinctive features of Somali attacks. Current counter piracy measures are then discussed in section 6, while section 7 attempts to identify other complementary interventions, namely possible situational prevention measures applicable to the problem. Section 8 contains the conclusions.

Hot areas

Piracy is a transnational phenomenon, involving vessels under different flags, with crew members of different nationalities, sailing territorial waters of foreign countries and being attacked by pirates coming from neighbouring states. But maritime piracy is also a local problem, since it is concentrated in a few favourable areas where specific opportunities arise, namely Southeast Asia, the Somali waters, the Western African coast and parts of South America[1].

This concentration of a high number of pirate attacks in a few limited areas has been explained with reference to geographical, socio-economic, political and legal factors[2]. These enabling factors are held responsible for offering the best opportunities to commit such crimes. With regard to geographical favourable

Figure 1. Actual and attempted attacks by location for 2010
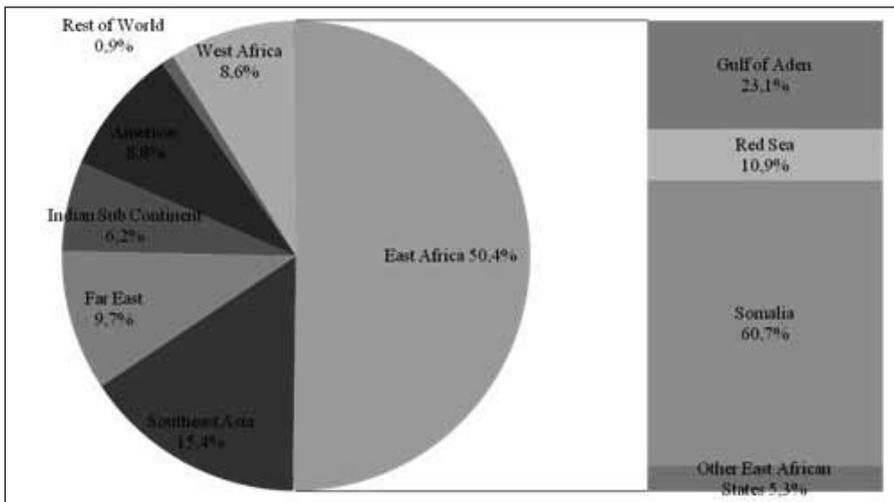
Source: authors' elaboration of ICC-IMB data.

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[1]   M.N. Murphy, "Contemporary Piracy," in *Contemporary Piracy and Maritime Terrorism: The Threat to International Security*, ed. M.N. Murphy, vol. 388, Adelphi Paper (London: Routledge, 2007), 14; ICC International Maritime Bureau, *Piracy and armed robbery against ships*, Annual Report 1 January-31 December 2010 (London: ICC International Maritime Bureau, 2010), 5.

[2]   J.A. Wombwell, *The Long War Against Piracy: Historical Trends*, Occasional Paper (Fort Leavenworth, Kansas: Combat Studies Institute Press, US Army Combined Arms Center, 2010), 3-4; Murphy, "Contemporary Piracy," 12.

conditions, for example, pirates are usually more attracted by narrow rather than high seas, because they can easily manage targets and instruments. By sailing closer to the shores, targeted vessels are easily reachable even with small boats[3].

An analysis of the locations of piracy attacks that took place in 2010 confirms their concentration in few favorable areas. As shown in figure 1, in 2010 half of the incidents – both actual and attempted ones – occurred off the Eastern African coast. Among these incidents, the 94.7% is assignable to Somali pirates, who attack targeted ships along the east coast of Somalia, in the Gulf of Aden and in the Red Sea[4].

Given the high number of attacks off the Somali coast, the analysis will be limited to Somali piracy and its peculiarities, after a discussion on available information on the phenomenon in the next paragraph.

Data on piracy

Data on maritime piracy are provided by different international or governmental organizations. Among these, the International Maritime Organisation (IMO) and the International Maritime Bureau of the International Chamber of Commerce (ICC-IMB) collect data in a systematic way[5]. The former gathers data on acts of piracy and armed robbery against ships from member governments and international organizations from 1983, even though annual reports have been regularly published since 1996. The latter collects data on sea piracy in annual reports as well, but those data reflect incidents directly reported to the Piracy Reporting Centre in Kuala Lumpur by the ships' crews or owners after the attacks. As shown in figure 2, these data are included in those collected by the IMO, which checks the validity of the information submitted by the ICC-IMB as well as by member governments and other international organizations before including them in its annual report[6].

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[3]   Murphy, "Contemporary Piracy," 14.
[4]   ICC International Maritime Bureau, *Piracy and armed robbery against ships*, Annual Report 1 January-31 December 2010, 6.
[5]   M. Bruyneel, "Current reports on piracy by the IMO and the IMB - a comparison," in *People and Sea II Conference* (Amsterdam: Centre for Maritime Research (MARE) and International Institute of Asian Studies (IIAS), 2003), 1.
[6]   Bruyneel, "Current reports on piracy by the IMO and the IMB - a comparison," 1; Murphy, "Contemporary Piracy," 21

Figure 2. Flow diagram for reporting incidents
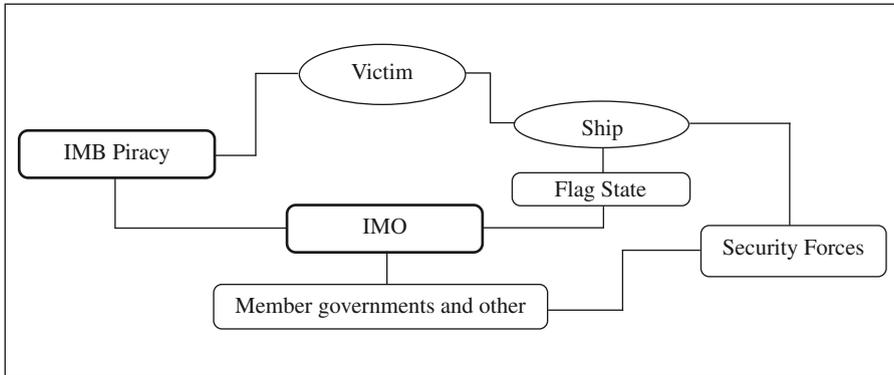
The reliability of data on maritime piracy is controversial. Disagreement persists over the collection and the classification of attacks between the two major international organizations that gather information on piracy, since different definitions of the phenomenon are used. The IMO has adopted the UNCLOS definition of piracy and thus restricts maritime piracy to the high seas[7], while the ICC-IMB proposes a wider definition, including any piratical attack regardless of the location of the incident[8]. Under- and over-reporting are also likely to occur. On the one hand, ship owners might be reluctant to report incidents, fearing a raise of insurance premiums. On the other, an increase in the awareness of and concern about the problem might have positively affected their willingness to report piracy attacks over the years. Hence, the number of reported incidents in the last few years might not be comparable to figures concerning previous years[9].

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[7]   Article 101 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) defines piracy as any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed: (1) on the high seas, against another ship or aircraft, or against persons or property on board of such ship or aircraft; (2) against a ship, aircraft, persons or property in a place outside the jurisdiction on any State; or any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; or any act of inciting or intentionally facilitating an act described above.

[8]   D. Dillon, "Maritime Piracy: Defining the Problem," *SAIS Review* 25, no. 1 (2005): 156.

[9]   Murphy, "Contemporary Piracy," 22; S. Bateman, "Maritime piracy in the Indo-Pacific region – ship vulnerability issues," *Maritime Policy & Management* 37, no. 7 (2010): 739.

Trends

Despite problems linked to the reliability of data on maritime piracy, some considerations are possible, with specific regard to Somalia. Figure 3 shows trends in attacks attributed to Somali pirates over the last seventeen years and allows for some initial considerations.

Figure 3. Attacks attributed to Somali pirates. Period 1994-2010
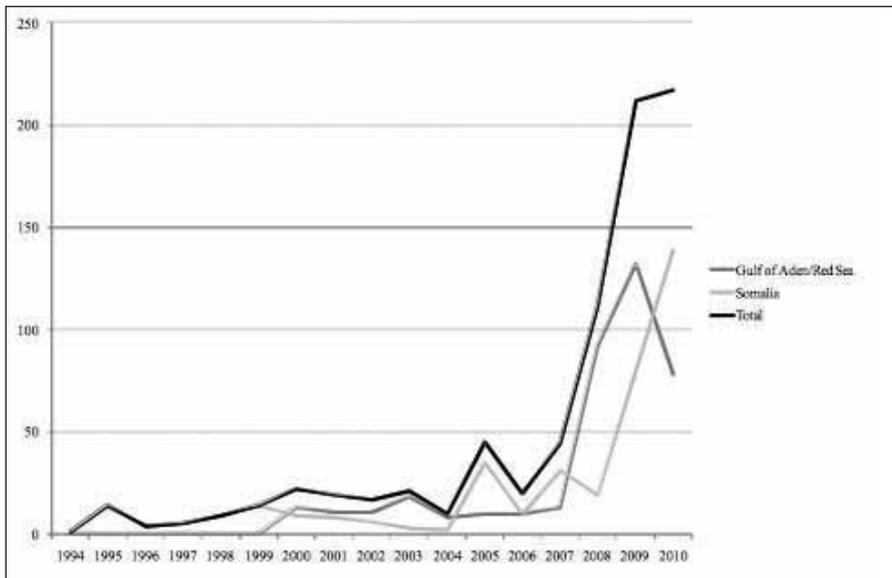
Source: authors' elaboration of ICC-IMB data.

In recent years there has been a gradual increase of attacks off Somali waters, especially since 2006, with a peak in 2008. In 2009 the total number of attacks, compared to the year before, has doubled, but the percentage of successful hijackings has decreased, while failed attacks (attempts to board vessels or fire against them) have risen from the 60% to the 77% of total incidents[10].

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[10]   R. Middleton, *Piracy in Somalia: Threatening global trade, feeding local wars* (London: Chatham House, 2008), 3; ICC International Maritime Bureau, *Piracy and armed robbery against ships*, Annual Report 1 January-31 December 2009 (London: ICC International Maritime Bureau, 2009); ICC International Maritime Bureau, *Piracy and armed robbery against ships*, Annual Report 1 January-31 December 2010.

In the last few years a change in the location of incidents has also occurred. Until 2007 vessels were mostly attacked along the east Somali coast. In 2008 pirates moved to the Gulf of Aden and to the Red Sea, but two years later the targeted area has changed again. Pirates now attack ships mostly off the east coast of Somalia, but they also travel farther from the shores in the Indian Ocean[11].

These continuing changes of location seem to suggest that trends in maritime piracy might depend upon contingent factors such as an increase of sea patrols or preventive measures taken by vessels rather than an increase of pirates operating in a specific area. The shift in the location of the attacks in 2008, for example, might be the consequence of the provision of an escort to ships sailing off the east coast of Somalia with humanitarian aid. Likewise, when international naval forces started to patrol the Gulf of Aden, the location of the incidents changed again, with some pirates shifting their focus to the high seas of the western Indian Ocean, where more criminal opportunities had risen[12].

Criminal opportunities for piracy

Piracy is thus dependent upon criminal opportunities that are actually available to potential pirates. With the exception of attacks perpetrated by Nigerian pirates, whose motives are often political, criminal opportunities are primarily connected to the achievement of financial benefits. Somali pirates' profits, in particular, come from ransoms, since they usually kidnap ships and their crew, and ask for money in return for both of them[13].

When a ransom is asked, shipping firms and governments are usually willing to pay relatively small sums of money in return for the life of crew

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[11]   Middleton, *Piracy in Somalia: Threatening global trade, feeding local wars*, 3; ICC International Maritime Bureau, *Piracy and armed robbery against ships*, Annual Report 1 January-31 December 2009; ICC International Maritime Bureau, *Piracy and armed robbery against ships*, Annual Report 1 January-31 December 2010; S.I. Baniela, "Piracy at sea: Somalia an area of great concern," *Journal of Navigation* 63, no. 2 (2010): 196.
[12]   Baniela, "Piracy at sea," 197.
[13]   Middleton, *Piracy in Somalia: Threatening global trade, feeding local wars*, 5; ICC International Maritime Bureau, *Piracy and armed robbery against ships*, Annual Report 1 January-31 December 2009; J. Abhyankar, *Piracy and Maritime Violence: a Continuing Threat to Maritime Industry* (Barking, Essex, United Kingdom: ICC International Maritime Bureau, 2002), 7.

members and for ships that have a higher value than the sum asked[14]. Hence, the chance to gain huge sums of money creates opportunities for piracy:

The payment of ransoms to free hostages and ships has created an incentive for Somalis to engage in piracy or to profit from the resulting piracy economy that exists in some places along the Somali coast. There is no official estimate of the sum of the ransom payments made over the reporting period, but experts assume it to be in the tens, if not hundreds, of millions of dollars[15].

The likelihood of successfully attacking a vessel and obtaining an economic benefit is connected to several factors which foster criminal opportunities. Criminal opportunities are indeed related to legal and jurisdictional difficulties and state failure, as well as specific characteristics of ships that make them more vulnerable to attacks[16].

Difficulties in jurisdiction are related to the fact that piratical attacks usually involve vessels under different flags, with crew members of different nationalities, sailing territorial waters of foreign countries and being attacked by pirates coming from neighbouring states. In all these cases, state sovereignty is the main obstacle for law enforcement agencies willing to operate in foreign territorial waters. This problem has not been solved, even by the 1992 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (UNCLOS), which applies also in territorial waters when the targeted vessel has an international destination[17]. However, limitations in its applicability and its focus on prosecution rather than prevention make it a weak measure to prevent piracy.

Differences in anti-piracy legislations among states hinder the arrest and prosecution of pirates as well[18]. And even when pirates are arrested, state failure reduces the probability of pirates being prosecuted and convicted. State failure refers to the presence of a weak state, unable to effectively contrast piracy, either due to the lack of resources or to widespread corruption among its police and governmental officials[19]. The leverage of the presence of a weak government on the presence and extent of the problem is exemplified by the decline of piratical attacks in Somalia in the second half of 2006. Indeed, in Somalia a functioning government is missing since 1991, but the presence in that specific period of the Islamic Courts Union in Mogadishu and in the

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[14]   Middleton, *Piracy in Somalia: Threatening global trade, feeding local wars*, 5.
[15]   UN Secretary General's Report, 27 October 2010.
[16]   Murphy, "Contemporary Piracy," 13.
[17]   Ibid.
[18]   Ibid.
[19]   Ibid, 15-16.

surrounding area caused a reduction of the attacks, while incidents began growing again at the beginning of 2007[20].

Criminal opportunities also come from factors related to specific characteristics of ships that make them more vulnerable, namely low size, low speed and low crew size. Small ships with a low freeboard are easier to attack and board, while the high freeboard of large vessels makes them less vulnerable. The size of the crew may be a vulnerability factor as well, since the fewer the crew members, the less likely they are to take effective defensive measures. Finally, pirates usually approach targeted vessels in fast skiffs. Ships with low speed are thus less likely to evade their attacks[21].

Modus operandi

Most attacks conducted by Somali pirates take place against ships under way, usually in international waters. In 2010 steaming ships were the sole target of Somali pirates and among successful attacks (65 incidents out of 217) 75% involved the hijacking of the ship[22].

When attacking a steaming ship, pirates usually approach the targeted vessel from either the quarter or the stern with one or more small skiffs with powerful engines and use 'mother ships' as bases to attack vessels far from the coast. Attacks usually take place at night or early in the morning, to reduce the likelihood of being sighted from afar[23].

Another peculiarity of Somali pirates is the rare use of violence, while its threat is particularly frequent. The limited use of violence is connected to both the targets and the aim of the attacks, namely the demand for a ransom. Indeed, Somali pirates often board vessels with an unarmed or untrained crew,

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[20]   Middleton, *Piracy in Somalia: Threatening global trade, feeding local wars*, 3; J.N. Anyu and S. Moki, "Africa: The piracy hot spot and its implications for global security," *Mediterranean Quarterly* 20, no. 3 (2009): 104.

[21]   Middleton, *Piracy in Somalia: Threatening global trade, feeding local wars*, 4; Murphy, "Contemporary Piracy," 18; UKMTO, *Piracy off the Coast of Somalia and Arabian Sea Area,* Best Management Practice 3 (Dubai: UK Maritime Trade Operations, June 2010), 6.

[22]   ICC International Maritime Bureau, *Piracy and armed robbery against ships*, Annual Report 1 January-31 December 2009; ICC International Maritime Bureau, *Piracy and armed robbery against ships*, Annual Report 1 January-31 December 2010.

[23]   Middleton, Piracy in Somalia: Threatening global trade, feeding local wars, 4; Murphy, "Contemporary Piracy," 19; UKMTO, Piracy off the Coast of Somalia and Arabian Sea Area, 9.

so that the seizure of the ship is feasible without the use of violence. The crew's safety is also a fundamental requirement for the request of a ransom in return for the kidnapped crew members[24].

Counter piracy efforts

Information on the rise of criminal opportunities and pirates' modus operandi, as well as on trends over time, are useful to discuss efforts undertaken to counter sea piracy and to analyze their effectiveness.

Activities taken against piracy are primarily focused on improving the legal framework and assisting Somalia and other neighboring countries to put into practice investigation, prosecution, judiciary and conviction procedures. But uncertain legislation, prosecution and conviction, as well as the lack of coordination among States, have in some cases limited the effectiveness of measures taken by governments to counter piracy[25].

The main response by the international community consists in the deployment of warships to the Gulf of Aden and the provision of protection for vessels of the World Food Programme sailing off the east coast of Somalia[26]. Three resolutions of the United Nations Security Council (UNSC) allow foreign warships to conduct anti-piracy operations in Somali territorial waters, provided they obtain authorization of the Transitional Federal Government (TFG)[27]. Patrol activities are mostly conducted by the Combined Task Force 151 (CTF-151) of the Coalition of Maritime Forces and under the EU NAVFOR 'Operation Atlanta'[28].

When several nations are involved in a single piracy case, information-sharing and coordination between the military, law enforcement and judicial bodies is crucial. However, the UN Security Council has emphasized the lack of provisions that criminalize pirates or make their prosecution pursuable in many states. UN Resolution 1918:

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[24]   Anyu and Moki, "Africa: The piracy hot spot and its implications for global security" 108.

[25]   Ibid., 111.

[26]   Baniela, "Piracy at sea," 199.

[27]   UN Resolutions 1816 (June 2008), 1838 (October 2008) and 1851 (December 2008).

[28]   The European Union Naval Force Somalia – Operation Atlanta, launched in December 2008, consists of units from several EU countries and has the task of protecting vulnerable vessels from piratical attacks off the Somali coast (*see http://www.eunavfor.eu/*).

[...] calls on all States, including States in the region, to criminalize piracy under their domestic law and favorably consider the prosecution of suspected, and imprisonment of convicted, pirates apprehended off the coast of Somalia, consistent with applicable international human rights law[29].

Besides measures taken by national governments to prevent and counter piracy, a set of best practices to reduce vessels' vulnerabilities by ship owners and crew members has also been developed. These best practices are mainly based on past experiences and have been collected by the UK Maritime Trade Operations (UKMTO) office in Dubai. The UKMTO recommendations include the installation of fire hoses, door locks and high-voltage fences, the use of electronic tracking devices and the organization of extra watches when sailing pirate-infested waters[30].

Situational prevention techniques

Given the problem of maritime piracy and the actual measures to counteract it, the question is whether situational prevention techniques are applicable, considering that these opportunity-reducing techniques would be complementary to those already implemented. In order to answer this question, after a short introduction on situational prevention and opportunity-reducing techniques, existing prevention measures that can be assimilated to situational prevention ones are identified and analyzed. The introduction of new preventive measures is then discussed.

With its roots in rational choice, routine activity and crime pattern theories, situational crime prevention comprises a set of opportunity-reducing techniques to be applied to specific forms of crime with the aim of reducing opportunities for crime – and thus crime itself – through the systematic modification of the immediate environment. Situational prevention techniques can be divided into five groups, namely those aiming at increasing the risks and the effort of criminals, or reducing the rewards or provocations, and those aiming at removing excuses[31].

As explained in paragraph 6, some precautions recommended by the UKMTO and often adopted by crew members and ship companies comprise

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29   UN Resolution 1918 (April 2010).
30   UKMTO, *Piracy off the Coast of Somalia and Arabian Sea Area.*
31   R.V. Clarke, ed., *Situational Crime Prevention: Successful Case Studies* (Guilderland, NY: Harrow and Heston, 1997).

extra watches and the use of fire hoses, door locks and high-voltage fences[32]. These preventive measures aim mainly at increasing the risks and the effort of pirates willing to attack vessels; they can thus be assimilated to situational prevention measures for reducing opportunities for piracy, as shown in table 1.

However, a deep understanding of a wider applicability and the effectiveness of existing preventive measures is needed, especially in the long run. The non-linear trend of recorded piracy incidents may indeed be due to the disorientation of pirates in the early period after the implementation of preventive measures and their subsequent adaptation to the new situation, which would enable them to successfully attack and board vessels soon after the implementation of such measures. Preventive measures could also be enhanced, including those that aim at reducing the rewards and remove the excuses.

With regard to measures aiming at reducing the rewards, there are different options for reducing those coming from ransoms. As the UN Secretary General has noted:

> [...] ship owners can take out private insurance that covers negotiation assistance and ransom payments in the event of a kidnap for ransom[33].

An effective preventive measure could be the denial of insurance on ransoms, so that shipping companies wouldn't be covered in case of piracy attacks against their vessels and might be less willing to pay. Forbidding the payment of a sum of money in return for the hijacked vessel could be another option.

Forbidding the payment of ransoms or their coverage by insurance might reduce the likelihood of ship companies paying pirates in return for their vessels and crews, and thus reduce rewards for pirates. But it might also increase the risks for crew members and passengers, who would be at the mercy of their kidnappers. Measures aiming at reducing the rewards for pirates thus present a trade-off between crew safety and reduction of criminal opportunities that make it difficult for these measures to be widely adopted.

Another consequence might be a change in pirates' tactics and the rise along Somali coasts of the 'phantom ship' phenomenon, namely the seizure of a ship which is then given a false identity and used to commit cargo frauds[34]. In this case crew members are usually either thrown overboard or killed. Hence,

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[32]   Murphy, "Contemporary Piracy," 19; UKMTO, *Piracy off the Coast of Somalia and Arabian Sea Area.*
[33]   UN Secretary General's Report, 27 October 2010.
[34]   Abhyankar, *Piracy and Maritime Violence: a Continuing Threat to Maritime Industry*, 3.

consequences in terms of lives lost might again be higher than in cases of crew members held for ransom.

The aim of preventive measures might also be the removal of excuses. Much Somali piracy appears to have its roots in fishing disputes. Indeed, the absence of any effective authority operating along the national coastline favored the exploitation of marine resources by European and East Asian fishing vessels, more geared than their Somali counterparts. Piracy then became an alternative livelihood for Somali fishermen[35]. A reallocation of fishing rights giving particular attention to Somali fishermen might therefore remove excuses and thus dissuade some of them from piracy.

Table 1. Situational prevention measures

Increase the effort	Increase the risk	Reduce the rewards	Reduce provocations	Remove excuses
1. Target harden Door locks	6. Extend guardianship Extra watches	11. Conceal targets	16. Reduce frustrations and stress	21. Set rules Reallocation offishing rights
2. Control access facilities High-voltage fences, fire hoses, anti-climb paint	7. Assist natural surveillance	12. Remove targets	17. Avoid disputes	22. Post to instructions
3. Screen exit	1. Reduce anonymity	13. Identify property	18. Reduce emotional arousal	23. Alert conscience
4. Deflect offenders	2. Utilize place managers Installation of CCTVs	14. Disrupt markets	19. Neutralize peer pressure	24. Assist compliance
5. Control tools/weapons	3. Strengthen formal surveillance Electronic tracking devices	15. Deny benefits Forbidding ransom payment, denying insurance on ransoms	20. Discourage imitation	25. Control drugs and alcohol

Source: authors' adaptation of the 25 techniques of situational prevention (see http://www.popcenter.org/25techniques/).

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[35]   Baniela, "Piracy at sea," 195.

Conclusions

Piracy is a threat to maritime transportation in several areas of the world. The concentration of almost half of the attacks off the Somali coast has caused particular concern in the international community over the safety of vessels sailing in that area. Somali pirates do not often use violence against their victims, who are instead kidnapped and held for ransom. Sums asked by pirates in return for the vessel and its crew are relatively small, so that shipping firms are usually willing to pay. Hence, criminal opportunities are connected to the chance to gain financial benefits, as well as to geographical, socio-economic, political and legal factors.

In the last decades several measures to counter piracy along the Somali coast have been adopted, but their focus was primarily on prosecution rather than prevention, and their effectiveness was in some cases limited. Besides these measures, the UKMTO has collected a set of recommendations for crew members and ship owners to prevent piracy attacks. Some of the suggested measures can be assimilated to situational prevention opportunity-reducing techniques; but their effectiveness, especially in the long run, is still unknown and should be investigated, as well as their wider applicability.

Besides a review of current counter piracy measures, this paper has investigated the possibility of introducing new situational prevention techniques, especially those aiming at removing the excuses and reducing the rewards coming from ransoms. Different options have been examined, emphasizing both their benefits and their potential shortcomings. In some cases changes in the trade-off between crew safety and the reduction of criminal opportunities may not be desirable, as it could ward off the implementation of such preventive measures. Other interventions, though, if properly implemented, might reduce opportunities for piracy off the Somali coast and thus increase maritime security in that area.

AFRICAN TRANSNATIONAL CRIMINAL ORGANIZATIONS IN ITALY

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The criminal organizations of African origin present in Italy may be broken down into two main ethnic groups: *Maghreb* criminal organizations and *Nigerian* criminal organizations.

The first group includes citizens from Morocco, Tunisia, Algeria, Libya and Mauritania, who operate in small groups in the capital cities of the provinces of Central-Northern Italy and are mainly active in the import and retail peddling of drugs like hashish and heroin.

The second group, structured on an ethnic-tribal basis[1], operates autonomously on a large part of the Italian territory with permanent settlements in Piedmont, Lombardy, Veneto, Latium and Campania Regions where criminal groups are active in different types of crime ranging from human trade to drug trafficking and computer forgery and fraud.

Examples of criminal activity associated with these groups include:

- *Human Trafficking.* Thehuman trade[2] and the related crimes[3] are typical of Nigerian criminal organizations operating in a large parts of Central and Northern Italy. After arriving in the destination country, victims pay to their persecutors fees for meals and accommodation expenses, for the use of the place where they exercise their prostitution activity (so-called *joint*) and for

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[1]   The crimes made in Italy by such organizations characterize the ethnic groups to which the same belong; exploitation of prostitution and drug trafficking are practiced mainly by people belonging to the *Igbo* ethnic group, while computer forgeries and frauds are usually made by Nigerians belonging to the *Yoruba* ethnic group (see 2002 *Report* by the Ministry of Interior on foreign crime in Italy).

[2]   The Nigerian organizations have reached in this crime a high organizational capability, planning the human trafficking in more steps and making use of a network of operating bases present in the various EU countries. In this way the victims do not arrive any more exclusively from their country of origin but from miscellaneous countries of Europe and North Africa, hence eluding Law Enforcement's investigation activity.

[3]   Smuggling and exploitation of prostitution.

travel to Italy. Such fees are, estimated to be between 80,000 and 100,000 euro per person;

- *Drug Trafficking.* Nigerian criminal organizations are among the best organized and structured among the African criminal organizations present in Italy, thanks to their capability to create relationships with the supplying cartels in Brazil, Colombia, Turkey and Pakistan. They are forcefully established on the international markets, being structured in criminal networks that facilitate the procurement and distribution of huge amounts of drug also to criminal organizations of other ethnic groups;

- *Smuggling.* Currently this crime has slightly decreased with respect to the previous years, as a result of the enforcement of the August 2008 Benghazi Treaty between Italy and Libya. As an alternative to Libyan routes, such criminal organizations are using the coasts of Tunisia, Egypt, Turkey and Greece as logistic platforms to embark the migrants going to Italy. It must be noted that the aforesaid African organizations are using small and medium luxury boats more and more frequently, hired or in some cases stolen, for the transportation of small groups of twenty to forty migrants at a time to the Italian coasts. Such boats, besides being less showy than the conventional "barges", make more complex the investigations aimed at proving the liability of both the owner and the crew, and less complicated their release from seizure.

- *Fraud.* Financial frauds via mail, computer[4], or the so-called "*euro multipliers*"[5]. Though not falling under the favorite activities of Nigerian

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[4]   Known as "419 Scams", deriving from the article of the Nigerian criminal code corresponding to fraud crime.

[5]   The investigation "CAMPO DEI MIRACOLI", completed by the Police of Padua on 14.07.2009, with the enforcement of a Custody Preventive Detention Order in prison issued by the Magistrate of the Court of Padua, against 15 suspects indicted for criminal association aimed at frauds and documentary forgery, with the aggravating circumstance of trans-nationality, pursuant to art. 3 of Italian law 146/2006. The activity, started by the report of a well-known national satirical TV program, regarded a North African criminal organization perpetrating frauds with the so-called money "multiplying" technique, through chemical processes. The investigation, in its entirety, allowed to ascertain 28 cases of fraud perpetrated to Chinese, Bengali, Pakistani and Italian citizens, resident in the provinces of Belluno, Rovigo, Treviso, Venice, Verona, Vicenza, Turin and Udine. In particular, once they had identified the victim, they convinced him/her also through demos, to be capable to produce banknotes of 50, 100 and 500 euro, using common paper sheets placed in contact with true banknotes, subsequently dipped in chemical fluids.

criminal organizations present in Italy[6], these are crimes where such organizations have reached a high level of slyness and inventiveness. Such scams are made in the whole Euroland by using techniques that have remained unchanged over time and that envision the sending of correspondence (by ordinary mail, fax or email)[7].

Who are the main players managing the organized crime in Africa?

According to Italian investigations, apart from Nigeria, in the other States of the African continent there are no qualified criminal organizations, but small groups structured mostly at family level and mainly active in drug trafficking and smuggling. In Maghreb there are organizations structured as cells with reference contacts in Morocco, Egypt, Tunisia, Algeria, Sudan and Libya, capable to operate in concert with other organizations being present in Europe, to whom they ensure the recruitment, transfer and arrival of migrants from origin country to the destination country.

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[6]   Such phenomenon, which is not new in our Country, started in the middle of the '90s and grew exponentially from 1999 to 2002. The representative of the Italian Institute for Foreign Trade at the Italian diplomatic mission in Nigeria published on the embassy website a memo about the existence of such fraud, specifying the *modus operandi* used in the aforesaid criminal organizations and recommending the Italian entrepreneurs who intend to start business relations with the Nigeria not to sell any goods but only against early payment by cash, and not providing in any case their bank references.

[7]   In particular:
- the wife of a well-known Nigerian victim of a political persecution who asks for help to transfer abroad the family assets;
- a bank officer ready to cash money belonging to a deceased person without any estate;
- an officer of the Nigerian oil company looking for help to transfer abroad some funds, that are presumably illicit;
- an officer of the Nigerian central bank who, having been informed about a forthcoming currency depreciation, asks for help to transfer his money to a safe place;
- a Christian priest, who intends to save the money of his church from the guerrillas.
- Through such communications, the offenders ask entrepreneurs or merchants resident in E.U. countries to open current accounts to support future transactions, or advance payments to prepare the presumed transfers, hence stealing any money made available by the "victims".

Such data was confirmed by the engagement of R.O.S. in the "ADDHI'B[8]" and "CARONTE[9]" investigations completed in 2009 and in the "SABR[10]" investigation completed in March 2010).

In Nigeria there are different organized groups, defined as "*Masonic or secret organizations*", dedicated to systematic acts of violence perpetrated in the whole country. Among these there are two groups also present in Italy which

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[8]   The investigation ended on 5.3.2009, with the enforcement of a Custody Preventive Detention Order in prison, issued by the Magistrate of the Court of Bari, on the request of the local D.D.A. (ANTIMAFIA DISTRICT OFFICE) against 13 suspects indicted for criminal association aimed at extorsion, smuggling aiding and abetting, as well as at forgery of identity and stay permit documents with the aggravating circumstance of transnational crime. The orders followed an investigation started in 2005 on some frequent visitors of a Muslim place of worship of Barletta with the aim to verify the nature of the contacts with people belonging to *Jihad* cells, found in other activities of ROS. The organization was structured in cells with contacts in the origin Countries (Morocco, Egypt, Tunisia, Algeria and Sudan), in the transit Country (Libya) and in the final destination Country (Italy), capable of operating in synergy ensuring the recruitment, transfer and arrival of migrants in Italy, who after being located in the center of first reception or in the temporary stay center of Crotone, Agrigento and Caltanissetta, were approached by the organization associates, already hosted in the aforesaid structures, who put them in contact with the relatives present in Italy and in other European Countries, organizing their escape and taking care of their escorting to the final destinations. The activity ascertained that the Sudanese group selected the victims interested in joining their relatives already present in Italy, who were then confined until a ransom was paid by the same relatives amounting on average to 500 euro.

[9]   The investigation ended on 12.03.2009, with the enforcement of a Custody Preventive Detention Order in prison issued by the Magistrate of the Court of Milan against 17 suspects indicted for criminal association aimed at smuggling aiding and abetting, human trafficking and forgery of documents and other crimes, with the aggravating circumstance of transnational crime, pursuant to art. 3 of Italian law 146 of 2006. The activity allowed the identification of a transnational association, composed of Egyptian, Moroccan and Libyan citizens, dedicated to the aiding and abetting of the smuggling of hundreds of African and Middle Eastern citizens, to their transfer from the Libyan coasts to the Italian coasts, as well as to subsequent labour exploitation, mainly in the province of Milan. The repressive actions affected Lombardy and Belgium where, through the Police International Cooperation Service, 4 suspects were reached with a European warrant of arrest.

[10]   Partially completed last March with reference in freedom to Lecce District Attorney's Office of 35 suspects indicted for human trafficking and slavery, this investigation is identifying a transnational Italian-Maghreb organization operating in the provinces of Lecce and Siracusa in trafficking of human beings recruited in Morocco and Tunisia with the false promise of a job in Italy where, after arriving, they were reduced to slavery and exploited for the harvesting of fruit and vegetables, in the Lecce countryside of Nardò.

distinguish themselves by their cruelty and which have been fighting against each other for a long time, called "*EIYE*" (eagles) and *BLACK OUT* (dark).

Currently these two organizations, also known as "*cults*" are involved in different criminal activities, such as murders, acts of sexual violence, extortions, robberies, kidnappings, drug trafficking and others. The methods for the recruitment of associates combine rituals of initiation with physical tortures of various kind, the initiates shall take a lot of alcoholic drinks and drugs, 'potions' being considered capable to provide members with supernatural powers. Also the initiation of women to feminine cults includes very brutal practices, like the obligation to be subjected to multiple consecutive sexual intercourses. Many cultists also exercise prostitution;

Beside the so-called "Cults", in Nigeria there are several family-based criminal cells, in charge of recruiting women to be sent to the so-called "*madames*", who lead criminal groups located in Italy and in other E.U. Countries for their subsequent sexual exploitation.

Which are the similarities with other criminal groups in other parts of the world?

In Italy the "*Cults*" – except for the absence of the pre-requisite relating to the territory control - may be compared to the traditional mafia organizations.

In fact, such organizations are structured in a vertical or hierarchical form, are dedicated to the perpetration of an unlimited number of crimes against property and against people, and are oppose to rival gangs of the same ethnic group, in order to maintain control within the Nigerian émigré community. To this end, the associates of the Cults rely on the force of intimidation, the association bonds, the condition of submission, the support to imprisoned associates and codes of silence typical of the traditional mafia organizations.

The ritual of initiation is also relevant to this discussion. The Public Prosecutor of Turin in noted during the "NIGER[11]" investigation (an attempted muder of Nigerian citizen Holy Omojevwe in 2005):

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[11] The "NIGER" investigation carried out by the Turin Carabinieri in a Nigerian criminal organization operating in that province in drug trafficking and in exploitation of prostitution. On 16.05 and on 18.12 2006 in two distinct repressive phases 34 people were arrested in total, all Nigerian, belonging to the mafia organization called "EIYE", dedicated to the perpetration of crimes against property and against people. Beside confirming the interest of associations of Nigerian origin in the traditional criminal sectors, the investigation documented the clashing presence of two criminal groups, related to EIYE and to BLACK AXE respectively, who since 2004 have been violently fighting against each other to get the monopoly of drug trafficking and exploitation of prostitution in the Piedmont capital city, through the perpetration of numerous murders and attempted murders.

I was submitted to an initiation ritual in Nigeria. At night the bosses took me into a forest, blindfolded me, tied my hands and whipped me to make me suffer in order to test my strength. They made me drink an alcoholic drink with pepper and they made me take an oath. I had to respect the rules of the association, I committed not to leave the organization, I could only exit when dead.

Such "Cults" in Italy have been investigated within the scope of the "NIGER" investigation of the Turin local Police, ended in 2006, and of the "EYIE[12]" investigation of the Brescia Police, ended in October 2007.

Which is the criminal penetration of these groups?

Very deep. Over time the "Cults" have evolved so much to extend their sphere of action in different European and non-European countries, imposing their *modus operandi* within the Nigerian communities present in the hosting Countries.

Are the groups involved in organized crime in line with their government, or are these groups composed of rebels or insurrectionists, pirates, terrorists or groups of any other kind?

In African Countries there is a high rate of general corruption, both at the police and government levels. Traffickers easily use the African territory for the transit and storage of drugs. Such data is largely confirmed by the repressive activities carried out by the Italian law enforcement forces. The Nigerian criminal groups, besides exercising corruption practices toward institutional elements - are inserted in pseudo-religious contexts and practice esoteric rituals, so-called "*voodoo*".

Another qualifying aspect of the Nigerian criminal structures is the existence of pseudo-legal support superstructures, often consisting in humanitarian-

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[12]   The investigation ended on 17.10.2007 with the enforcement of a Custody Preventive Detention Order in prison issued by the Magistrate of the Court of Brescia against 9 suspects indicated for mafia association, exploitation of prostitution, drug possession and peddling, extorsions, credit card cloning and aiding and abutting of smuggling. The activity affected the members of a Nigerian criminal organization liable for numerous aggressions occurred in the province in the last two-year period. Said criminal organization is structured in a top-down form and is related to the Nigerian "Secret Cults" present all over Italy and namely in the cities of Brescia, Turin, Naples, Parma, Verona and Rome, who perpetrate an unlimited number of crimes against property and against people.

cultural ethnic associations, that are present across Europe and that support relationships among and between criminal organizations. Many investigations found the existence of illicit relations between some subjects inserted, sometimes with top management roles, within Nigerian cultural and/or humanitarian-religious associations and the reference contacts of the criminal organizations of the same ethnic group[13].

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[13]   Such associations are characterized by a strong sense of *ethnic belonging* which binds the various sub-groups between each other. It is the case of "IGBO" or "MBANO" strains characterized by a rigid internal division and the high ability to express violence, which strengthens the connections among Nigerians migrated into different parts of the world. Such aspects make the police actions not always easy.

In reality, as it resulted during the investigating activities, on one hand the associations ensure a number of institutional legal connections between the diplomatic missions and the Italian administrative bodies, foreign offices of Police Superintendent's Offices in particular, for the accomplishment of regularization procedures and formalities; on the other, in some cases, they hide the performance of real criminal activities.

The most well-known is the *Associazione Nigeriana in Italia (Nigerian Association in Italy)*, with main office in Padua. According to what it resulted from the investigations (TITOS 2 and LAGOS 2, of the Carabinieri of Padua and Mestre respectively), the organization would be the main point of reference of the Nigerian illegal immigration in the Veneto region, and head of a composite criminal structure which defined the *territorial divisions* and decide who could be regularized (MBALLA Jean Aimè reported during an examination: *"This territorial division is very respected and originates from arrangements made in the past. In this respect, the head of the entire organization is … (omissis), of whom I have already told you before, who is a person highly considered and beyond suspicion as he has been the president of the Nigerian community in Italy for a long time. Actually, he is the person who decides the territorial divisions in the Veneto region and all over Italy relating to the areas to be assigned to the various "guys" who manage the Nigerian prostitution.").*

The meetings of such groups or associations - as it was found in the GIGLIO NERO and LAGOS2 investigations - are very frequent and often aimed at dealing issues related to the illicit activities, and in particular to the financial and division issues.

More recently, such role grew further, as pointed out by the numerous reports we receive. In this respect we refer to the following:
- the role of the Turin branch of *ZOE PENTECOSTAL MISSION* (*this is the so-called Nigerian Church, with offices in Reggio Emilia, via Ramazzini, 31 and branches in other Italian cities)* to which numerous *Madames* operating in the prostitution exploitation sector would report. The church is managed by the Nigerian priests … (omissis), both indicated as relevant elements of the criminal organization dedicated to the exploitation of prostitution, and specialized in *wodoo* rituals;
- the role of *INTERNATIONAL FELLOWSHIP MINISTRY (This is another Nigerian church founded in Turin, where it has its offices)* one of the founders of which, … (omissis), would deal with the organization of travels of girls destined to prostitution.

Which kind of crime do they perpetrate at international level?

Both Maghreb and Nigerian organizations are specialized in drug trafficking, smuggling and human trade aimed at exploitation of prostitution and illicit labor.

From the outcome of the Italian investigations, drug trafficking and smuggling are very widespread in Maghreb countries, while human trafficking for sexual exploitation purposes is more practiced by Nigerian criminal organizations.

Who are the leading people involved ?

In drug trafficking the Nigerian organizations proved to be the best organized and most flexible among the African criminal organizations, thanks to their capability to set relations with the cartels supplying cocaine in South America and heroin in Turkey and Pakistan, They forcefully imposed themselves into European and non-European markets, organizing themselves as international networks. In fact, the use of different "cells" scattered in the areas where drugs are produced, in the countries located along the main routes used for narcotrafficking, as well as in the countries of destination, characterizes the *modus operandi* of Nigerian criminal associations, by facilitating the procurement and distribution of huge amounts of drugs, in favor of criminal organizations of other ethnic groups. The commitment of the ROS to this phenomenon materialized with the "FANTASIA 2[14]",

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[14]   The investigation materialized on 6.02.2007 with the enforcement of a Custody Preventive Detention Order in prison issued by the Magistrate of the Court of Naples on the request of the local D.D.A. (ANTIMAFIA DISTRICT OFFICE) against 29 suspects indicted for criminal association aimed at the trafficking and peddling of drugs like heroin, cocaine and methadone.

The activity allowed to break up a Nigerian criminal organization composed of various operating cells present in the provinces of Naples and Caserta (the "*headquarters*" of which were found in the *Aversa* area*).* Such units [were] composed of one or more people, with branches in other cities of Central-Northern Italy and in the countries of Nigeria, Togo, Burkina Faso and Turkey, in Europe, in France, in Germany and the Netherlands, united among each other with the only purpose to reach an unfair gain in the import and marketing of drugs like heroin and cocaine, retrieved outside the national territory through fellow countrymen resident therein.

"VIOLA[15]" and "FOGLIE NERE[16]" investigations completed in the last three years.

Who are the main victims and where are they ?

The victims are the young African girls who are traded and started off on prostitution in the E.U. countries.

In Nigeria, most of then have a low level of education, come from the South of the Country (Benin City or Lagos) or from some inland villages and typically belong to Igbo, Yoruba, Bini and Edo tribes. The age is typically ranging between 17 and 30 years. However, recently the tendency was to trade even younger victims used by pimps also as drug mules.

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[15]   The investigations, started in February 2007 by ROS in close cooperation with the Dutch police against a transnational network liable for the trade of hundreds of women coming from the origin Country and illegally introduced in the Schengen Countries in order to be sexually exploited, had already allowed, in January 2008, a first action, with the enforcement of a restrictive injunction against 19 suspects in our Country, while other 29 people had been reached in the Netherlands, United States, England, Germania, France, Spain, Belgium and Nigeria, with a Dutch order issued within the scope of a related legal proceeding.
On 20 April 2009, the second and last investigation was completed with the enforcement of a Custody Preventive Detention Order in prison issued by the Magistrate of the Court of Naples on the request of the local D.D.A. (ANTIMAFIA DISTRICT OFFICE) against 35 suspects indicted for association aimed at human trade, slavery, exploitation of prostitution and international drug trafficking. Other 12 people had been arrested in flagrancy. Concurrently, within the scope of the "LINUS" investigation included in the same proceeding, the Carabinieri of Viterbo enforced an additional Custody Preventive Detention Order in prison, issued by the aforesaid Judiciary against 27 suspects, liable for association aimed at international drug trafficking. Overall, the orders concerned the Latium, Campania, Piedmont, Emilia Romagna, Umbria and Lombardy Regions as well as Nigeria, Turkey, Bulgaria, the Netherlands and Colombia. Exactly in this Country, thanks to the profitable cooperation of police and judiciary implemented by the ROS and by the Judiciary of Naples with the local authorities, constantly supported by DCSA and Eurojust, a restrictive injunction was enforced, issued within the scope of a related proceeding against 15 Nigerian and Colombian citizens belonging to the supplying group, while the organization promoter had been also reached with the Italian custody order.
[16]   The activity went through its first repressive phase on 22 April 2009 with the enforcement of a Custody Preventive Detention Order in prison issued by the Magistrate of the Court of Ancona, on the request of the local D.D.A. (Antimafia District Office), against 15 suspects indicted for criminal association aimed at international drug trafficking.

Is there a modus operandi *distinguishing this crime ?*

Nigerian criminal organizations engaged in their home country in drug trafficking and human trade aimed at sexual exploitation usually tend to follow the same *modus operandi*, that is well proven over time.

1. In drug trafficking:

Use of mules both men and women, so-called *mules* for the drug transportation within the body.

Selection of South American cartels of Central-Western Africa, as storage base of huge amounts of cocaine, for the existing widespread corruption in that area and with marine and ground links with Spain and Portugal, historically used also for the transfer of North African hashish.

The investigation identified a criminal association of Nigerian origin, with cells active in Italy and Spain, dedicated to the import into Europe of huge amounts of cocaine that, from Madrid, were sent to the active members in Piedmont and Marche Regions, with the conventional system of drug mules, so called "*corrieri a pioggia (indiscriminate mules)*". It also resulted that the organization used for such purpose young Nigerian women, who were then forced to prostitution on the Marche coast.

On 24 June 2009, the second and last repressive phase was completed with the enforcement of a Custody Preventive Detention Order in prison issued by the Magistrate of the Court of Ancona, on the request of the local D.D.A. (Antimafia District Office), against 30 suspects indicted for criminal association aimed at human trade, slavery, aiding and abetting and exploitation of prostitution and other crimes. Another order was issued by the Magistrate of the Court of Rome against 4 suspects indicted for criminal association aimed at illegal abortion. After fully outlining the narcotrafficking, the activity focused on human trade, identifying three connected Nigerian groups, scattered along the Marche coast, active in the exploitation of prostitution of fellow countrywomen, who travelled illegally from the origin Country and were reduced to slavery. The cells were headed by the so-called *madames* who forced the victims to pay their income from prostitution to pay off the debt made to travel to Italy, for the occupation of the *joint*, as well as for the expenses of meal and accommodation provided by the brotherhood. Evidence was given that the women were submitted to continuous intimidations and acts of violence, aimed at ensuring adequate daily profits and preventing their escape or their attempts of rebellion. It was also confirmed the coercive use of traditional magic-esoteric rituals (*woodoo*) to which the young girls are submitted upon their recruitment in Nigeria by the members of the association in charge of their engagement. The investigation allowed to reconstruct the entire trafficking pipeline, identifying the organization components in charge of the various steps and scattered, beside Italy, also in Nigeria and other European countries.

2. In human trade:

Recruitment of victims, through the so-called *recruiters* operating in the home country. Oath, consisting in a "magic ritual" like voodoo, whereby the girls undertake to return to the organization the money used for travelling to Italy. This ritual is the main tool used by the "madame" to reach an absolute psychological submission of the victims.

Stipulation of a contract, i.e. a deed binding the girl to the organization, that shall make up for her impediments, if any, by retaliations against the victim's family. In this manner the victims undertook to pay off the debt with the organization that facilitated their expatriation and subsequent arrival in Europe. Travel: the girls are delivered to the so-called *passeurs*[17], in charge of escorting the victims from the origin Country to the destination Country.

Is there any example of collaboration to be taken into consideration ?

The Benghazi Treaty[18], dated 30 August 2008 between Italy and Libya, aimed at strengthening the operating capacities of Libya, so that the migrants' route is directly interrupted at the southern Libyan border or offshore far from the African coast. So, Libya is assigned the critical task to hold migrants and

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[17]   Typically this is a male figure who has the task to "*securely transfer*", from the origin Country to the destination Country, the recruited persons and hence entrust them directly with the clients, ie the various *madames* present in Europe.

[18]   The protocol envisages that the Libyan Law Enforcement forces will be equipped with new equipment and patrol boats. It also envisages the construction by Finmeccanica of a satellite control network to monitor the desert frontiers. In May 2009 the joint patrolling started in the Libyan territorial waters. Now, any boat intercepted in international waters is escorted, after the first rescue and aid, back to the Libyan ports from which it left. The results of such agreements are a reduction of migrants landing onto the Italian coasts; also the Minister of the Interiors Mr. Maroni, in his speech to the Senate Judiciary Committee held in November 2009, declared that the control action carried out by the three patrol boats engaged in the Libyan waters for smuggling prevention "made the migration flows displace eastwards, using, as an alternative, the coasts of Tunisia, Egypt, Turkey and Greece as logistic platforms to embark the migrants going to Italy. It must be observed that the aforesaid African organizations are increasingly using small and medium luxury boats, hired or sometime stolen, to carry small groups from twenty to forty migrants at a time to the Italian coasts. Such boats, beside being less showy than traditional "barges", make more complex the investigations aimed at proving the liabilities of both the owner and the crew and make less complex and faster their release in case of seizure.

direct them to the origin Countries, the management of which has raised quite many problems of humanitarian nature and of respect of the human dignity.

The Abuja Treaty (Nigeria), dated 19 February 2009 between Italy, Nigeria and INTERPOL, aimed at strengthening the fight against human trade and smuggling, hence improving the international cooperation to hit the organizations driving this type of crimes.

Coordinated by INTERPOL, the pilot project of two years intends to allow the law enforcement forces of both Countries to strengthen their respective capacity to fight human trafficking, organized crime and smuggling.

Which is the role (good or bad) of the private sector in this type of crimes?

The private sector mostly used by the African organizations is the sector of money transfer agencies, which they use to send the illicit proceeds to their Country, that are then used to finance the same illegal pipelines (drug and prostitution). An important role is played by the various NGOs operating in the Italian territory, who are committed in the rescue and support of North African victims who are traded and sexually exploited.

AFRICAN ORGANIZED CRIME: EXTENDING OUTSIDE THE CONTINENT - *ACTORS, MARKETS, FLOWS*

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The more you drill down into the specific problems of transnational crime, the more complicated it gets. On what issues should a national, a local, or a city government focus its resources? What types of investigations should police departments be prioritizing? What should civil society be doing in terms of public awareness, education and NGO programs? How can we best marshal the assets we have, especially now that we live in an age of very limited and apparently declining financial resources? This is the ultimate problem: how do we go about determining what problems are most deserving of our time and effort?

When you look at organized crime actors focusing on Africa there are several ways to go. It is always good to blame others whenever you can and not to agree with the findings, but the findings from multiple data sources are robust. When you look at Africa's link to Europe, for example, whether it is illegal migration, human trafficking, drugs, gold, cassiterite (a mineral from which tin is made) and, going in the other geographic direction, firearms from Ukraine, keep in mind that this is an interesting combination of incidents and actors. There are some African offenders involved, some are African victims, and some reflect a combination of both African offenders and victims, especially in the case of human trafficking and the smuggling of mineral resources.

The U.S. Department of Justice has done analyses of international organized crime and their most recent report is focused on Nigerian drug trafficking and financial frauds, ivory smuggling from several African countries to the U.S. and instances of labour trafficking of women from Nigeria. In each case, African actors outside the U.S. were identified. Some of the actors were victims, and in some cases they are offenders, but it is important to notice that victimization occurred in both directions. As regards South America, the use of West Africa as a shipping point for cocaine headed towards Europe, as well as female human trafficking, primarily from Brazil and Paraguay, occurs towards Europe through Africa.

The data look similar in Asia, focusing on African actors outside of Africa, a large number of ethnic Nigerians in India and Pakistan are involved in heroin trafficking, ivory and rhino horn smuggling, counterfeit medicines from India and China, cassiterite from cargos to Europe and Asia and gold from

Africa to the Middle East. There are a large number of products, and a large number of smuggling and exploitation patterns.

The question is: what are we supposed to make of all this? How do we take rational actions based on the best information available, given the plethora sources, locations, and criminal activities?

First, we should be careful not to describe organized crime in terms of the ethnic or national background of its participants because such an analysis does not bring us to where we need to be. That is because when you look at actual cases of organized crime, most groups are networks of small in size, many times they lack ethnic or national ties, many are engaged in relatively few criminal activities, most have been found to work with other groups as they move their products from source to transit to destination and many have contacts in other countries. As the UNODC Report on Organized Crime early this year said, strategies aimed at the groups will not stop the illicit activities if the dynamics of the market remain unaddressed.

Markets versus Actors

Let's put the actors aside and let's look at the markets. Just to take a handful of examples, look at the market of trafficking victims that have been found in Western and Middle Europe; the Africans are really just a small part of the actual pie even though Europe does hold the largest African born population outside of Africa. Remittances are very important and some would say that this is where the situational crime prevention approach fails: even if you had a major enforcement initiative to reduce the amount of migrants smuggling and human trafficking out of Africa – much of it going to Europe – what it fails to account for is that your success will be limited and temporary because there is a huge interest in these activities because it serves a rational, economic interest. Countries depend on the money sent back from these people so the individuals are really following a very rational process in what they are doing. So as long as remittances are so important not only to individual families but to the gross domestic product of entire nations, despite every effort that is going to reduce migrants' smuggling through better patrols and better enforcement, you see that you are putting your hands on a search that is not going to be effective over the long term.

The international trade in ivory has been banned for quite some time now but when you look at world-wide ivory seizures, they are pretty resilient. So while the international legislative ban is important, clearly there are huge underlying economic "push" factors that are helping continue this trafficking trend. The law may be a first step – or maybe a second or a third step – but the law itself does not do anything, if you are not doing anything about these underlying economic and social pressures that still encourage trade in ivory despite all difficulties.

Chloroquine is used to treat and prevent malaria and the issue is that of

counterfeit and deluded medicine, most of it coming from India and China into Africa. In addition, most of it is not done accidentally, but on purpose as a deliberate fraud. The extent of the fraud expands when you combine failed potency tests, and consider the huge health and national consequences beyond simple counterfeiting, but that is a separate problem of the illicit market.

Sea piracy is not really a trafficking issue: it is a transnational issue of course and the issue that is of concern is the evidence of the growing distance of the piracy incidents from the Somali coast and the fact that pirates are targeting other types of craft, not just the original craft but also commercial ships, pleasure boats, even going after food and other types of shipments. So you worry about whether, without some push in the other direction, this form of piracy will evolve into something that we have not yet anticipated.

I have just briefly reviewed a series of individual illicit markets for products which are in demand. Looking at African actors is rather confusing, because there are so many markets and the push and pull factors are not simple. If you place all these markets on a single world map, as UN ODC has done, you can see the overlaps in the international trafficking of people and products worldwide. How do we make sense of this? We have this jumbled mix of individuals, groups and products. What is needed is an analytic approach to help us identify the nature of these illicit flows of products and services and, once these are identified, the individuals and groups involved will be found. This idea is illustrated in Figure 1.

Figure 1. Actual and attempted attacks by location for 2010
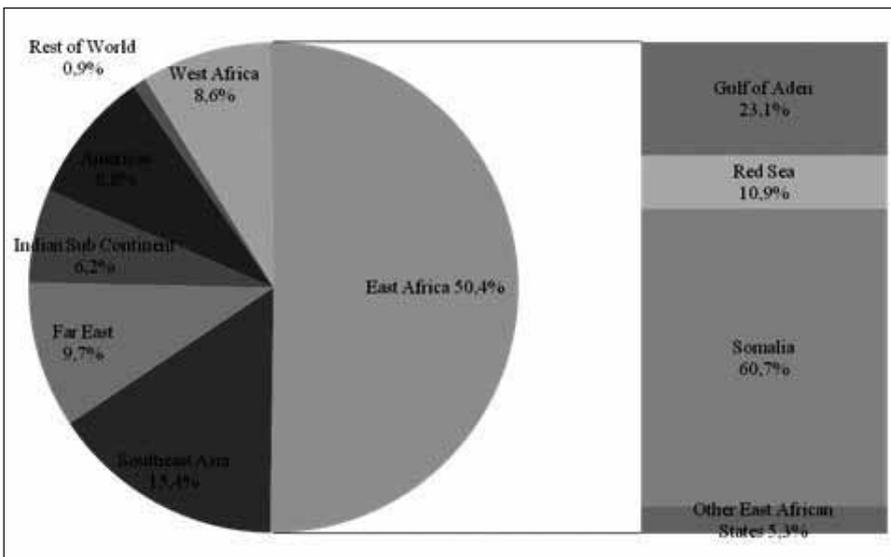
If you follow the horizontal line in Figure 1, you see the historical approach we have taken: police focus and investigate, gather information to locate criminals, they arrest them, put them in jail, and then they hope that they are going to decrease the incidence of that organized crime activity. For example, we arrest money launderers and we hope to thereby be decreasing money laundering. A different approach (depicted in Figure 1 large curved arrow) would be devoting more time to analysis ranking the markets at highest risk of organized crime infiltration, i.e. establish which markets are most likely to be seriously involved in organized crime. If we correctly identify those markets (which we would have to do probably on a metropolitan area basis simply because there is huge variation between nations and even local areas), and rank the markets first and focus our attention on those markets, that is going to lead us to the high-risk people and groups that we are looking for. So focusing on markets first will lead us to the criminal enterprises, rather than following people around and wondering why, after all these arrests and convictions, we have not impacted the size and scope of most illicit markets.

There is a way of doing this that is very straightforward. When you think of criminal enterprises - whether it is an enterprise of two people, twenty people or more – their goal is to survive and make money, that is why they are in the business, but they always have pressures on them as well. They have pressures of getting supply of the illicit product, they have pressures of reliable delivery to customers, they have pressure from regulators (primarily law enforcement) and pressure from competitors. So it is always these four pressures (supply, demand, competitors, regulators) and you can measure them. Measurement is not easy (it never is in social science research) but it is not impossible because it involves no more than 10 variables. Such measurement of these pressures would help you to come up with an empirical and objective way to rank the relative risk of various product markets.

People might say "it is impossible to measure the pressures on various illicit markets" but it is not; we have done it before. You might be familiar with the UN gender equality index; twenty years ago people said it was impossible but it is easy to develop an index if you rank collected data on a certain number of relevant variables. Twenty years ago people said there is no way to measure corruption because it is too diffused but you can, in fact, measure corruption quite well on a comparative basis. It can be done and has been done in other areas and I think it can easily be done here.

Conclusions

Analysis of African organized crime requires more than a description of the illicit markets which begin, end, or transit through the continent. In some cases Africans are offenders in these illicit enterprises, in others they are victims. Rather than taking a continental or ethnic approach to the problem of organized crime through Africa, an empirical and analytical approach is much more helpful. Thinking in terms of empirical risk assessment moves us from an exclusive focus on offenders to a focus on illicit markets and flows. If you can properly identify and regularly update your flow of information which pressures these markets (causing then to develop, shrink, or expand), we will target much more accurately the activities which pose the highest risk. If resources are then focused on these markets shown to be at highest risk, the largest impact on the existence of the illicit markets will be achieved.

Part II

CRIMINAL MARKETS

Chair
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The next segment of the conference consisted of three panels that explored criminal markets in Africa. One panel focused solely on the larger forms of transnational smuggling: drugs, people and arms. Another panel focused on financial crimes and fraud, including the counterfeiting of goods such as prescription drugs. Last, panelists also explored forms of transnational organized crime that are prevalent in Africa but are rarer in other parts of the globe, such as the poaching of rare animals.

The presentations and discussions on these topics revolved around four discernable themes. The first was that Africa offers a heterogeneous mixture of illicit markets, and that these markets go well beyond the smuggling of drugs, people and weapons. Like other regions of the globe, the smuggling of drugs, people and arms serve as the primary criminal markets that connect Africa to other parts of the illicit political economy worldwide. The increasing attention on drug smuggling from South America to Europe via West Africa is a testament to the importance of this criminal market. That said, the conference was quick to note a series of criminal markets that occupy a significant portion of the local or regional illicit economies of Africa. Examples that frequently arose included illicit exports from extractive industries, financial fraud and illicit poaching.

Throughout these discussions, the panelists explored the nuances of these markets as they manifest themselves in different parts of Africa as a second theme. For example, organized crime groups are less involved in the Horn of Africa than in southern Africa. The main reason for this is that the illicit trade in diamonds in the region fueled arms purchases and created a demand that would support the involvement of transnational organized crime.

The third theme explored the interconnectedness of these markets. In spite of their diversity in terms of actors, locales and purposes, the speakers and discussants demonstrated how illicit markets fed one another. Above all, the participants noted the importance of the illegal drug and arms markets as connective tissues for a panoply of criminal enterprises and activities. For example, arms trafficking into the Horn of Africa led to a tenfold increase in cattle rustling in Kenya in the early 2000s. Likewise, one discussant noted a UNODC study that showed how drug smuggling had also led to the smuggling of significant amounts of precursor chemicals through Africa.

A final theme was the harm that these illicit markets foster in Africa. Each presentation brought forward the damage resulting from these illicit markets. Harm was not simply measured in lost economic potential, but in other equally damaging ways. For example, the criminal markets surrounding the illegal poaching of African wildlife and the illegal fishing of African seafood had not just economic but environmental harms associated with it. The public health costs of this and other criminal markets, in particular the counterfeiting of medicines, were also detailed at length during this session. Finally, the loss of faith in governing structures and the loss of societal cohesion attributed to transnational organized crime operating in Africa drew discussions at times.

DRUG SMUGGLING

ANDREW CUMING
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The United Kingdom Threat Assessment (UKTA) for 2010 states that an estimated 65-70% of UK's identified cocaine supply is believed to be produced in Colombia, or in the border areas of neighbouring Venezuela and Ecuador, with Peru and Bolivia accounting for the vast majority of the remaining 30-35%. Indeed, indications are that the relative importance of Colombia is declining. Over the last decade coca leaf cultivation in the country decreased by 58% whilst increasing by 38% in Peru and more than doubling in Bolivia. In 2008, it is estimated by the UNODC, 25 tonnes of cocaine (worth US$6.8 billion) passed through West Africa en route to Western Europe, of which a significant percentage was for the UK.

West Africa is used by the cocaine trade, in particular Latin American drug trafficking groups working collaboratively with local criminal enterprises, as both a consolidation point and as a centre for logistics, command and control. The threat posed by cocaine trafficked from West Africa to the UK and Europe is expected to continue to increase over the coming years, as is the particular use of aircraft to fly deeper into remoter regions of African countries, where drug traffickers feel they can operate safely because of more pliable regimes and infrastructures.

The cocaine trade causes widespread social, economic, environmental and structural harm to individuals, communities and countries throughout the supply chain from source to street. It represents a significant threat to the stability and prosperity of transit countries, particularly those where poverty and weak institutions leave them vulnerable to the corruption of officials and those in positions of power by cash-rich trafficking groups. Corruption can be acute in weak and failing states; countries affected by conflict and poverty; in cash-based economies; and wherever those in positions of authority are corrupt, and there is a fledgling or weak judiciary. This is of particular concern in West Africa where drug trafficking can act as a powerful driver for continued instability in the region and is a significant barrier to good governance and to wider development efforts, such as the Millennium Development Goals. From a UK perspective, the trade undermines UK government support for the rule of law and delivery of aid in the countries affected.

These concerns about the impact of drug trafficking on transit countries are shared by UN Secretary-general Ban Ki-moon who recently stated that

"Drug traffickers typically seek routes where the rule of law is weak. In turn, drug-related crime deepens vulnerability to instability and poverty."

The organised crime groups targeting Africa are without doubt in some cases, better funded, organised and trained than the police agencies that are out to disrupt them. It would be wrong to ignore the resources available to the major criminal organisations, and the protection and influence that they themselves can generate. Resource and budget management criteria are considerations for any Government Department but organised criminals make investment to protect investment. Thus, for example, these groups will run counter surveillance to protect shipments of drugs, weapons, cigarettes, etc and also run exceptional counter intelligence operations. It is reported that the Rodriguez Orejuela Colombian Organised Crime Group analysed government documents used against them in court to determine "how law enforcers penetrated their operations, identify confidential informants and government witnesses in criminal proceedings, learn about latest police surveillance and undercover tactics, and devise action strategies to avoid similar mistakes in the future." In addition, other groups have conducted surveillance and monitoring of law enforcement facilities, entrapment operations against senior officials, and even undertake sophisticated analysis and computer database manipulation to identify intelligence opportunities – the same Orejuela group, for example, used data to establish "telephone link analyses to determine whether their associates were calling US law enforcement agencies." These transnational criminal groups are not amateurs – this is tradecraft that you would see from nation states, as is the continuing threat from organised crime groups to governments, in the form of targeting key individuals within the system both for intimidation and corruption, as we have recently seen in locations as diverse as Afghanistan and Mexico.

West Africa

The threat to Europe, including the UK, of cocaine trafficking via West Africa actually reduced for most of 2009. Between January and March 2009, for example, seizures of cocaine entering the UK from West Africa were one tenth of those recorded for the same period in 2008. This can be attributed to law enforcement action and international attention which effectively disrupted the use of West Africa as a transit route to the European market for a large part of 2009. There were no identified non-commercial bulk cocaine flights from South America between September 2008 and September 2009. Prior to that, prolific trafficking by air and by sea had resulted in multi-tonne quantities being available for sale in West Africa and onward shipment to Europe.

It is not yet known whether flights identified in late 2009 into West

Africa, using longer range jet aircraft, signal a return to previous levels of trafficking by air. However, we are expecting this dip in overall cocaine traffic to West Africa to reverse in coming years - poor and unstable countries in the region attract traffickers, who will look to corrupt those at high levels who are in a position to enable bulk trafficking to take place.

Colombian groups continue to dominate bulk trafficking through West Africa, often with the ultimate aim of shipping it onward to the Iberian Peninsula, particularly the Galicia region of Spain. There are also a number of West African communities in South America (e.g., the largest Nigerian expatriate community is in Brazil) that enable West African criminals to obtain cocaine directly from the source, including bulk quantities for shipment to West Africa and Europe. Cocaine is also provided to West African facilitators, government officials and military figures by Colombians as payment for services. This has resulted in the emergence of a secondary supply chain from the region to Europe, which is controlled by West African groups, making use of 'little and often' importations by air couriers and exploiting historic colonial links. This has also contributed to an increase in drug addiction rates and associated health and social problems in West Africa.

In the West African sub region, organised crime, driven by illicit trafficking, constitutes a major threat to peace and security and a serious impediment to sustainable development. State fragility and poor governance have opened the way for criminal networks to evolve and infiltrate national institutions further exacerbating political, economic, and social instability. Organised crime and drug trafficking undermine the rule of law and threaten human security in West Africa. If not adequately addressed, the consequences of these criminal activities will continue to have devastating effects on national, regional and international governance and security. The rise in cocaine trafficking routes through West Africa has also undermined development aid and economies, through corruption and other issues – let me give you a non-West African example to illustrate this. Why for example, does it cost almost 10 times the amount to build a school funded by US aid as it does to build an Afghan school? In Afghanistan, grassroots corruption at checkpoints on major roads means that the price for a farmer to take goods to market increases exponentially. Passing through 20 checkpoints to take goods to market in Kandahar can add 100 Afghanis per checkpoint, depending on the goods, which is clearly unsustainable. Combine that with violence and a lack of infrastructure (proper roads, refrigeration facilities, etc), suddenly the price for Afghan grown produce or goods can exceed that of goods imported from Pakistan, and also allows speculators with facilities to buy up the produce cheaply, store it and then resell it to Afghans at an inflated price. The economy becomes distorted and inflated by the price of corruption and black markets boom.

There are numerous practical examples in West Africa where politicians and senior law enforcement figures have been implicated in cocaine trafficking. A number of these are reported on in the UN World Drug Report of 2010. For example, in the Gambia in March 2010, the president ordered the arrest of 11 top-level law enforcement officials in the country in connection with drug trafficking, including the Director of the National Drug Enforcement Agency, his deputy and his head of operations, the National Police Chief and his deputy, the chief of the navy, the deputy chief of the army, and the Minster of Fisheries.

In Sierra Leone, the Minister of Transportation resigned after his brother was implicated in the country's largest cocaine seizure. A member of the Ghanaian parliament was arrested in New York in 2005, trying to smuggle 67 Kilograms of heroin. The son of former President of Mauritania was arrested on cocaine trafficking charges in 2007, while in Guinea, the former President's son confessed on national television to involvement in the drugs trade. The case of Guinea-Bissau is particularly worrying as collusion between the ruling class, security forces and drug traffickers has contributed to the political destabilisation of the country. The situation in Guinea-Bissau will continue and likely deteriorate as long as drug trafficking and corruption remain unchecked. In the longer term, such deterioration can increase the threat of instability in neighbouring countries.

North Africa

If we are talking about the movement of cocaine from South America we are a quite naturally looking at long distances using aircraft and vessels for transport. This obviously offers law enforcement clear opportunities to interdict. Problems of arise when the drugs are broken down into smaller consignments and transported overland.

Looking further north to Algeria, Libya, Morocco, Tunisia, Mali and Mauritania, the region has many of the characteristics of West Africa; political instability, little or no 'rule of law' and corruption. Again ideal conditions for the trafficking of narcotics with it being easily integrated into existing networks SOCA does not currently have representation in this region so reporting and intelligence collection becomes sporadic, reliant on our embassies in the region and often incorrect open source reporting. Over recent years the region has been identified as a transit route for cocaine transported up from West Africa. This in turn has fuelled concerns of possible links between drug traffickers and terrorist groups which have a foothold in the region.

Several recent events have given weight to the belief that historic smuggling routes are being used for the smuggling of cocaine originating in West Africa. First is the crash of a Boeing 727 jet on its return leg to Venezuela

from Mali, on 5 November 2009, suspected of transporting cocaine for trafficking through west and north Africa to its ultimate destination in western Europe. Assessments of the amount of cocaine that the plane could have transported vary from 3 to 10 tonnes (4.8 tonnes is best UK official figure); either way, it is a large amount and a significant proportion of the estimated 250 tonnes of cocaine that enter western Europe annually. It is believed that a makeshift airstrip near Gao in Mali used by the 727 was under the control of Al Qaeda in the Islamic Maghreb (AQIM).

Second is the arrest in December 2009 of three individuals in Ghana (by undercover U.S. Drug Enforcement Administration (DEA) officers posing as Revolutionary Armed Forces of Colombia (FARC) representatives) who were subsequently transferred to the US and charged in a New York court with 'narco-terrorism' offences, following a four-month DEA sting operation. The three men had claimed affiliation with AQIM and they had been responsible for protecting cocaine shipments. They offered to transport cocaine at $4200 per kilo between West and North Africa using heavily armed convoys.

Two additional incidents lend themselves to this observation as well. In February 2010, three suspected AQIM operatives were killed in a gun battle with the Mauritanian army that resulted in the seizure of a large quantity of drugs. According to the Mauritanian army, cannabis and apparently 5 metric tons of cocaine were seized. In early 2010, reports of Libyan military engagements with heavily armed convoys near to its borders with Algeria. On one occasion, large amounts of unspecified drugs were recovered.

Clearly there is a pattern emerging in the region reaching from Mauritania to Libya. The question for law enforcement is who do we engage with and how do we gather further intelligence. The problems encountered in West African countries are exacerbated by the presence of Islamic militants along many of the trafficking routes and even military forces deem it unsafe to visit these virtual no go areas. Another question is once the narcotics have transited these countries how do they enter Europe? All of them have ports onto the Mediterranean with little recognized control and vast uncontrolled coastlines. As we have seen in the past with routes between Morocco and Spain and Albania and Italy, 'fast boats' are able cross hundreds of miles of sea in a short period of time with little expectation of interdiction.

South Africa

Africa is also an emerging destination for Afghan heroin, and countries in East and Southern Africa have been used as transit points for Afghan heroin being moved to Europe. In 2009, UNODC estimated that only a small

percentage of the heroin seized in Europe was trafficked from Africa. Some West African criminal groups' traffic heroin between Afghanistan, Pakistan and India through Middle Eastern countries and East Africa into West Africa and onto the UK; others based in Turkey and the Balkans organise the exportation of heroin to the UK.

South Africa is being used as a convenient transit route for both cocaine and heroin. This is due to the very good transport infra-structure here both sea and air with direct routes into Europe. The majority of drugs are being brought into surrounding countries such as Mozambique, Namibia and Angola and then by road into South Africa. There is a very small market for both cocaine and heroin.

The question remains as to why we are seeing such a big increase in drugs transiting to Europe via Southern Africa. The South Americans bringing cocaine via air into West Africa have realised we and our partners have increased our presence in the region significantly over the past few years. Heroin routes by Dhow being dropped on beaches on the East African coast particularly Mozambique, Tanzania and Kenya are now very regular. The Somali piracy situation is effecting traditional routes for Heroin Dhows up through the Suez and the Gulf. The presence of the pirates and the large coalition navy presence is pushing the Dhows southwards. And we cannot forget corruption and capability. The majority of law enforcement in the region are corrupt and those that are not do not have the capability or resources to deal with international drug traffickers. In particular the Dhow traffickers know that there is 1000s of kilometres of deserted coastline with no law enforcement or military capability to stop them.

In general the main threat to the UK down here is from countries with a coastline. Those countries which are landlocked such as Zimbabwe and Zambia we have little interaction with and any threat is from the odd cannabis package found in an international shipping parcel.

Operational Response

Stability cannot be sustained without the existence of a meaningful law enforcement agenda. Although the presence of organised crime and drug trafficking is not unique to fragile and failing states, a weak rule of law and high prevalence of corruption makes such states attractive to organised crime groups. Organised crime in turn can itself further cause or exacerbate conflict and fragility and fuel corruption, resulting in long-term impact on prospects for peace and prosperity.

But of course, criminals are adept at seeking out the weakest point in any given situation. A combination of successful law enforcement activity and

strong political action *can* create an environment that is difficult for drug traffickers to operate in and which causes them to seek alternative countries to operate from. And this is why greater regional co-operation is required – it is the phenomena known throughout law enforcement as "squeezing the balloon": as you apply pressure in one place, another pops up as a problem. It also leads to a certain level of laissez faire on the part of certain governments – you don't necessarily have to have good law enforcement agencies, judiciary, etc and continually strive to improve. You can, instead, just aim to be better than your neighbour.

The United Kingdom's Serious Organised Crime Agency (SOCA) is providing support to law enforcement in West Africa to combat the threat but the long term aim is that the authorities build their own capability and take a committed stand against the traffickers. We have a network of officers based overseas playing a fundamentally important role in tackling serious organised crime and delivering the organisation's commitment to UK harm reduction. It is the primary mechanism through which SOCA pursues upstream disruptions and intelligence gathering across all programmes of activity, and is central to partnership working with both UK and overseas law enforcement agencies. The network includes a presence in West Africa. The following examples show the type of action that SOCA and its partners, both from the UK and overseas, are taking in relation to the threats.

In July 2008 a tip off from SOCA led the Sierra Leone authorities to intercept a Cessna plane from Venezuela as it touched down at Freetown's international airport seizing 600 kilos of cocaine. Thirty four plastic fuel drums were found in the aircraft, used for refuelling in-fight for the trans-Atlantic crossing, and all part of a single batch purchased in Colombia. This was the first significant success in West Africa for SOCA and came about after we passed intelligence about the plot to a specialist unit that we had been helping Sierra Leone to develop. The unit then carried out the interception with the assistance of local police. The subsequent investigation was supported, at the request of the Sierra Leone authorities, by a SOCA team deployed from the UK to Freetown to provide assistance and guidance. The team provided forensic and investigative advice and exhibit handling expertise, to assist with crime scene investigation and the presentation of the evidence in court. Drug samples together with the packaging were collected and brought to the UK for forensic examination, ensuring that the chain of evidence was maintained. A number of telephones, laptop computers, GPS and satellite navigation systems were also transported to the UK for analysis, which led to further investigations.

On an associated matter, when SOCA first deployed to Sierra Leone in 2006 following the first major seizure of cocaine in country, SOCA found that Sierra Leone had no meaningful law to prosecute large scale cocaine trafficking,

hence the deployment of a Crown Prosecution Service official at the same time to help them write legislation.

The Serious Organised Crime Agency provided expertise and forensic support to the Gambian National Drugs Enforcement Agency which resulted in the seizure of 2,100 kilos of cocaine in June this year. The seizure – a record size for West Africa – would be worth more than £100M at UK wholesale prices. The network included Latin Americans, Europeans, Gambians and Nigerians. After an initially small seizure, and working with the Gambian authorities, SOCA conducted forensic examination of various locations, electronic equipment and the drugs recovered during earlier searches. Due to this work, the team then located a previously undiscovered underground bunker concealed behind a false wall in a warehouse used by a fishing company. When the bunker was investigated on the evening of 4 June, 85 sacks were discovered containing a total of 2,100 kilos of cocaine 'bricks' as well as 60 empty sacks, indicating that the bunker had been used as a distribution centre. This seizure was highly significant in that it clearly demonstrates the commitment of law enforcement in Gambia to tackle the traffickers head on.

On 3 September 2010 decisive intervention by the authorities in Cape Verde marked the latest move in a growing response by West African countries to the threat of drug traffickers seeking to exploit the region. In the first operation of its kind for Cape Verde, a law enforcement detachment joined forces with the Royal Navy's HMS Gloucester and recovered around 30 kilos of cocaine which had been concealed inside the rudder housing of the yacht 'Tortuga'. The suspect vessel was boarded in the mid-Atlantic and taken to Cape Verde. The operation was coordinated by the Maritime Analysis and Operations Centre (Narcotics) (MAOC(N)) in Lisbon, acting on intelligence from the French Central Office against Illegal Narcotics Trafficking (OCRTIS). It represented the culmination of a significant period of work by SOCA, MOAC(N) and the Royal Navy to develop the capacity of Cape Verde counter-narcotics operations.

Law Enforcement Strategic Response

In addition to this tactical and operational work, a significant amount of effort is put into ensuring that the UK adopts a cross-Whitehall (i.e. whole of government) approach to West Africa that makes the best possible use of the UK's resource and funding in the region. This includes viewing drug trafficking as not solely a law enforcement "problem" but as part of the wider strategy around governance, stability and security. This addresses a key and developing theme, that of law enforcement diplomacy. As the British Foreign and Commonwealth Office (FCO) and others draw back on resource, coverage and

range of duties overseas, a gap has been created that has been filled by non-traditional overseas agencies, acting on behalf of both their aims and the wider government. Thus, SOCA are now, in certain parts of the world such as failing states, part of the diplomatic team that responds, which includes FCO, the Department for International Development (DFID), the Ministry of Defence (MOD) and others across Whitehall. Equally, with more politically difficult nations, we can be the first line to open communications – thus, whilst we may disagree politically with certain nations on territorial matters or other policy issues, there are very few nations that will not work with us to tackle drugs and crime matters: this is an area that affects us all.

SOCA also has an extensive network of overseas partners. These include numerous West African agencies, as well as those from other countries that have a law enforcement presence in the region, such as the French. The Liaison Officer platforms in Ghana and Senegal are an excellent example of joint working, sharing of intelligence and a coordinated approach to capacity building. The platforms have the primary aim of exchanging technical and operational information, and coordinating technical cooperation. The platforms work well; of particular benefit is the utilisation of other member's political leverage in the region, which has enabled SOCA to extend its reach into Francophone areas of West Africa.

The Seaport Cooperation Programme (SEACOP) is an EU funded initiative which seeks to strengthen cooperation in maritime cocaine trafficking and to support capacity building against criminal groups in West Africa. SEACOP will initially focus on Cape Verde, Senegal and Ghana but will later expand to six further West African countries as well as three countries in South America.

For North African countries the main perceived threat, relates to the Islamic terrorist militia AQIM and its effect on regional stability. Whilst there is no direct indication that AQIM are involved in the actual trafficking of cocaine or other drugs, it is believed that they may facilitate the passage of drugs through their controlled areas and levy a tax in order to do so thus financing terrorist training and the ability to commit terrorist attacks. This proximity to the drug trade may actually prove to be a vulnerability drawing Islamic fundamentalists into a ideological dilemma. It will also focus the attention of two distinct areas of law enforcement: counter terrorism and counter narcotics.

In relation to engagement in region Algeria has long been a partner of the UK in counter terrorism matters and are seeking to extend this to into organized crime areas and more recently the UK has increased its liaison with Libyan authorities, especially in the field of organized immigration crime. This is despite the UK relationship with Libya being sensitive, with issues including its poor human rights record and failure to cooperate on the 1984 murder of WPC Fletcher. Despite complexities, the UK is generally seen by Libya as a favoured and trusted bilateral partner with which it is keen to cooperate, in

particular with SOCA and the UK Border Agency. Increased law enforcement liaison with Libya could also bring benefits with surrounding countries such as Niger and Mali who have previously asked for Libyan assistance/advice in relation to armed convoys in their territories.

With much to gain from encouraging development in a wider region that can bring stability to EU borders, more could be achieved with a sustained and coordinated approach. This has been hindered however by insufficient regional cooperation plus national rivalries.

Conclusions

There are certain wider key political and security areas which law enforcement agencies dealing with the OC threat need to be both cognizant of and engaged in, in respect of Africa and the cocaine trade: these include (but are by no means limited to):

1. AQIM – what exactly is the relationship between AQIM and drug traffickers / criminal groups? Is it symbiotic? Is it, as we have seen in Afghanistan, a certain interdependence between the groups? Or is it something else, a coincidental alignment of necessity, or lower levels of each interacting outside the knowledge of those above? More research is required on this particular aspect.
2. South American partners: in addition to work by the EU partners & Francophone nations, there are fora such as the Community of Portuguese Language Countries (CPLP) for Lusaphone countries, including key locations such as Guinea Bissau, Senegal and Cape Verde as well as Portugal and Brazil, that might be able to do more. South American partners such as Colombia and Brazil can do more on the law enforcement front in Africa to help others tackle the issue – Brazil's Foreign Minister, for example, expressed grave concerns about Guinea Bissau's stability at their recent UN speech.
3. Emphasis – the National Security Strategy for the UK makes mention of the threat from OC but not in as wide a context as it might. Let us not forget that the UK loses more citizens every year to OC activity than to all terrorist activity combined. The economy is, every year, impacted more by OC activity than ever by terrorist action. And as we have seen, OC activity overseas can have a real impact on the stability of fragile and failing states, which can start an irreversible domino effect which might impact other aspects of security including energy security, CT efforts and political engagement.

The illicit drug trade is putting Africa at greater risk by undermining the rule of law and deepening corruption – when these factors combine with poverty, unemployment and rising influence of Islamic extremism, the mix is a potent one indeed with far-reaching implications, helping to ensure that parts of Africa continue to be prone to political instability. Targeted law enforcement action can help reduce the threat posed to Africa by drug trafficking although this must be matched by efforts of countries in the region to drive forward their own, and regional, action against the drugs trade, for example through the ECOWAS Regional Action Plan against drugs trafficking and related organised crime and recognised at African Union level as priority The response needs to be truly pan-regional if not pan-continent in the same way as the threat is a "regional threat". If not, traffickers will continue to establish secure positions in African countries where they feel they can operate safely, because of more pliable regimes and infrastructures that are more suited for onward trafficking.

MIGRANT SMUGGLING AND HUMAN TRAFFICKING

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Human trafficking and migrant smuggling are two separate crimes. Both have been recently defined under international law. This paper will present briefly these definitions and explain the differences between trafficking and smuggling. Then it will describe some of the ways in which trafficking and smuggling are manifested in Africa, briefly describing action taken to combat these phenomena including identified gaps and recommendations for future action.

Legal definitions of Trafficking and Smuggling

The term "trafficking in persons" is defined under *The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nation Convention Against Transnational Organized Crime 2000* (hereafter the Palermo Protocol).

Article 2:

(a)   "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b)   The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph *(a)* of this article shall be irrelevant where any of the means set forth in subparagraph *(a)* have been used;

(c)   The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph *(a)* of this article; *(d)* "Child" shall mean any person under eighteen years of age.

The act of trafficking in persons therefore includes three components that need to coincide:

1.   A chain of activities: recruitment, transportation, receipt etc.;
2.   The use of force, coercion or similarly negative means to achieve the chain of activities in element one;
3.   The activities made under elements one and two must be carried out for the final purpose of exploiting the victim.

Exploitation can be for any purpose and the definition provides an open list of examples such as slavery, forced labor, forced prostitution and organ removal. If there is no intended exploitation the situation is not trafficking. Importantly, in the case of children under 18, there is no need for the second element of the definition i.e. it is sufficient that the chain of activities has taken place and that the child ended up being exploited for there to be a case of child trafficking. This is the case even if a child knowingly agreed to be trafficked while fully informed on the expected conditions. Consent is irrelevant as long as the means mentioned under the second component of the definition were used since obviously the victim could not make a free decision.

The term "smuggling of migrants" is defined under the *Protocol Against the Smuggling pf Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime 2000* (hereafter the Smuggling Protocol).

Article 3. For the purposes of this Protocol:

(a)   "Smuggling of migrants" shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident;
(b)   "Illegal entry" shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State;

Trafficking and Smuggling: Similarities and Differences

The common dimension of trafficking and smuggling is that both are profitable illegal businesses involving human beings (men, women and children) and criminal networks. However, while smuggling of migrants can at times lead to human trafficking of the migrants, and while victims of trafficking and other smuggled migrants can move together and even be mixed, there are obvious and significant differences between the two crimes. Human trafficking can or cannot involve the crossing of an international border as trafficking can take place internationally or domestically. Moreover victims of trafficking may be taken across an international border legally, i.e. using genuine documents and valid visas. On the other hand, migrant smuggling must involve the illegal crossing of an international border. The documents used in the process of smuggling, if used at all, are often forged or stolen. The consent of a victim of trafficking is irrelevant to the existence of trafficking as victims are often deceived or coerced; a smuggled migrant on the other hand has come to an agreement with the smuggler that the latter will take him or her across an international border for a fee. Victims of trafficking are trafficked for the sole purpose of their exploitation while smuggled migrants usually pay the smuggler for his or her services. It is important to note, however, that smuggled migrants too are often abused, mistreated and extorted as they too lack state protection as soon as they go into the smuggling situation. In addition, smuggling can result in trafficking. Lastly it can be said that the crime of trafficking is committed against the victims while smuggling is committed against the state of which borders are crossed illegally.

The root causes for trafficking may often be the same root causes that lead people into being smuggled; first and foremost are extreme poverty, lack of employment opportunities, hope for a better life, and war and political unrest. At times, gender discrimination and a lack of legal options to migrate are causes as well.

Human Trafficking in Africa

Human trafficking takes place around the world and is widespread all over Africa where is comes in many different shapes and forms. Internal trafficking is very common in Africa and believed to exist in one form or another in every country, for example, the trafficking of girls for domestic work in Kenya and Tanzania and the trafficking for street begging of *madrasa* students in Senegal. Trafficking also takes place between neighbouring countries on the continent or from one region to another, for example, the trafficking of

Tanzanian children for street begging in Nairobi, Kenya or the trafficking of women from all over Southern Africa for forced prostitution in the Republic of South Africa. Lastly, Africans are trafficked abroad outside of the continent. Examples of this include Ethiopian women being trafficked for domestic labour in the Middle East or Nigerian women being trafficked for forced prostitution in Italy. Victims from Africa are trafficked to Europe, the Gulf States, the Middle East and North America usually for the purpose of domestic servitude and prostitution. Most countries in Africa are considered source, transit and destination countries for trafficking although some countries are more source and others more destination or transit.

The case of South Africa offers a good example of how trafficking operates in Africa. South Africa is a hub for human trafficking with trafficking of South Africans within the country, trafficking of people from other African countries into South Africa (Swaziland, Lesotho, Malawi, Democratic Republic of Congo, Zambia, Zimbabwe, Angola, Mozambique, Kenya, Somalia, Rwanda, Cameroon) and, what probably makes South Africa unique in the continent in that IOM has identified (and assisted) victims of trafficking who were brought to South Africa from other continents, mainly from Eastern Europe (Romania, Bulgaria) and from Asia (India, Thailand, China and the Philippines). Victims of internal trafficking in South Africa are usually recruited from informal settlements and rural areas. They are often brought to the major cities such as Johannesburg, Pretoria, Durban, Cape Town, Bloemfontein and Port Elizabeth and to mining regions such as Rustenburg.

Victims of trafficking in, to and from Africa are exploited for several purposes, the most common reasons being forced labor and forced prostitution. Domestic servitude is very common although receives less global attention than sexual exploitation. Victims for both domestic work and forced prostitution are mostly women and girls. For example, large numbers of victims are going from Ethiopia to Lebanon, from Kenya to Saudi Arabia, from Tanzania to Kenya or are trafficked internally within their home countries in Africa. The victims of this type of exploitation are very difficult for law enforcement or aid organizations to identify because they are within someone's home and often are not allowed to go out. As a result, nobody knows about their situation and their plight goes unidentified. Many of them, especially those trafficked in their own country or regionally are underage girls who are not allowed to attend school, do not receive sufficient food or sleep, and are often sexually abused by their employers.

A number of other forms of exploitation exist within Africa. Forced prostitution is also very common. One example is of Nigerian women trafficked into Europe and specifically into Italy. Other common forms of exploitation are agricultural work and fishing were victims being mainly boys, and street

begging – the latter mainly by children, boys and girls, or handicapped persons both males and females. Forced and underage marriage is a cultural practice in some places on the continent, which fits the definition of trafficking, the victims are usually girls aged 10 or 13 that are forced to marry and are raped.

Forced recruitment into militia forces is unfortunately also quite widespread in Africa. The Lord's Resistance Army (LRA) in Uganda has kidnapped and enslaved tens of thousands of children turning them into armed fighter or sex slaves as is the case with girls[1]. When the LRA was still active in North Uganda, children would walk every evening from their villages to the nearest town to sleep in the street and avoid being kidnapped as that was safer than remaining with their parents in the village.

There are also cases of trafficking for organ removal. In most cases identified, the organs are used for witchcraft in countries such as South Africa and Tanzania. In East Africa tens of Albinos were murdered in the part few years and their body parts used for witchcraft - believed to bring wealth. Some prosecutions in such cases are taking place in Tanzania and Burundi. Very little is known about trafficking for organ transplant. The International Organization for Migration (IOM) has come across some suspected cases in Somalia where the escaped victims are young children but their stories are not fully clear due to their young age.

Trafficking Victims

Trafficking victims in/from Africa are predominantly women and children, including orphan girls and boys, unemployed women, uneducated and educated people. Some may be internally displaced and refugees as well as others and many come from rural areas. In many cases parents or guardians are involved (knowingly or unknowingly) in handing over children to the hands of traffickers. IOM has also assisted some men after having been typically trafficked for forced labour (men from Kenya and Uganda are trafficked for construction work in South Sudan for example,).

Victims of trafficking in Africa may be transported by land, air or sea. In cases of internal or regional trafficking public transportation is commonly used. At times victims are forced to walk long distances in hard conditions. The journey is usually hazardous and, at times, this includes sexual exploitation (especially towards female victims) and physical abuse while on route.

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[1]   BBC. "Uganda rebel leader's mother dies". *BBC News*. BBC, 11 Nov. 2009. Web.

International borders may be crossed legally or illegally using false documents or by avoiding border control points. The illegal crossing of the border leads to illegal status in the country of entry. Unfortunately, in most countries the authorities do not distinguish between victims of trafficking and other irregular migrants and, if caught, the victims are often treated as criminals rather than being assisted. This is also often the case with victims forcibly engaged in prostitution or street begging in countries where these activities are illegal. The criminalization of trafficking victims is often the result of a lack of proper procedures and lack of capacity by border and law enforcement authorities to identify victims of trafficking. However, the victims themselves who are threatened and controlled by their traffickers usually would not reveal their real condition due to fear unless made to feel secured. During the journey the usage of transit or safe houses close to the border is common in southern Africa, especially before crossing from Mozambique and Zimbabwe into South Africa.

Once arrived in their final destination victims may be kept in private houses, brothels, bars, farms, or mining compounds depending on the type of exploitation. They are being controlled through physical, emotional and sexual abuse and threats – including, especially in the case of West African victims, the use of witchcraft by the traffickers. Traffickers also keep victims in vulnerable situations by threatening to contact the police and hand over the victims as illegal immigrants. Sadly, victims believe such threats even in countries where anti trafficking legislation has been enacted and the authorities actually provide support to victims. Victims' freedom of movement and contact to the outside world is restricted enhancing their dependency of their traffickers and exploiters. IOM knows of cases identified in South Africa where drugs were used to control the victims. Use of drugs may also be happening in Europe towards African and other victims.

Victims of trafficking are trapped and enslaved and throughout the process, they endure physical, emotional and mental abuse. Their human rights are constantly violated. Victims of trafficking are heavily traumatized; they often fall sick but have limited or no access to medical care; they do not have access to education (in the case of children); ultimately they may die or be killed. The long term consequences for these individuals are devastating even if they manage to escape the trafficking experience itself. On top of the physical and emotional scars that will accompany them after release, there is the central issue of stigmatisation and discrimination by the community, making reintegration harder and at times impossible. This is especially true in traditional societies, where women are expected to maintain their virginity until they wed. It is usually impossible for victims of sex trafficking to return to their families and they have to rebuild their lives alone, which is particularly difficult in a

patriarchal society. Many victims of trafficking, especially for sexual exploitation, simply cannot find alternatives to prostitution once they are free unless provided with tailored assistance through specifically designated programmes. Services may include psychosocial counseling, medical care, literacy classes, skills and vocational training, support to find accommodations and jobs, support to start a small business and, when possible, family reunification. Without assistance victims remain highly vulnerable to further exploitation and re-trafficking.

In sum, while there are a number of examples of human trafficking in Africa, some examples from different regions of the continent provides an overview of the severity of the problem. In *East Africa*, there is a high prevalence of internal and cross-border trafficking for domestic servitude. Women and girls are being trafficked from the East African countries within the region to the Gulf States and the Middle East as well as to Europe and North America. The Kenyan Ministry of Foreign Affairs reports receiving high numbers of distressed calls from relatives of women who travelled to the Gulf for domestic work and found themselves trafficked and exploited. Bogus employment agencies in Kenya are often the entity involved in recruiting and sending the victims.

In *West Africa*, the United National Children's Fund (UNICEF) estimates that 100,000 children in Senegal are forced to beg on the streets, most of them are victims of trafficking; in Dakar alone, the estimates are of 8,000 children[2]. The International Labor Organization (ILO) estimates that 41% of children in West Africa work and that some 200,000-300,000 children fall prey to sexual or economic exploitation every year[3]. In Ghana, IOM has been addressing the specific problem of child trafficking (boys) into the fishing industry. Women are also trafficked in high numbers from West Africa, it is estimated that there some 10,000 Nigerian prostitutes in Italy alone, most of whom have been trafficked into Europe, often by other women who were trafficked before and eventually became "madams"[4].

South Africa, as mentioned before, is the main destination for victims from outside Africa, while also "hosting" a high number of victims from Africa

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[2]   United States of America. Department of State. *Trafficking in Persons Report*. 10th ed. Washington: June, 2010. Print. pg 287.
[3]   IOM Dakar. "Analyse du phenomene de la traite des personnes en Afrique de l'Ouest". Dakar: IOM, n.d. Print.
[4]   Carling, Jørgen. "Trafficking in Women from Nigeria to Europe". *Migration Information Source*. International Peace Research Institute, Oslo. July 2005. Web. 08 Dec. 2010.

and South African victims. International victims are usually Asian women aged 18 to 31, who were promised a job at a beauty salon and end up forced into prostitution in one of the main cities. *Northern Africa*, particularly in Egypt, as reported by the United States Annual Trafficking in Persons' report, there exists the practice of trafficking for marriages of convenience which are very short; business men come from abroad, "take a wife" for the time they spend in Egypt and then leave the "wife" when they leave the country. Cases of trafficking for domestic servitude have also been identified by IOM.

The Traffickers

When exploring who the traffickers (and smugglers) are in Africa it is clear that some operate as part of an organized criminal group, large and well organized or small and grass rooted, while others operate in a non organized fashion acting alone or with collaborators who do not form a unified group.

Traffickers operate for profit, either the monetary gain they will make from selling the victims or the direct profit from the victims' labour and exploitation. Human trafficking is a lucrative international crime, said to be third in scope and profit worldwide after drug and weapon trafficking. The risks for the traffickers are quite minimal as many countries have not yet enacted legislation against trafficking or do not yet have the capacity to effectively identify, arrest and prosecute traffickers. Victims of trafficking can be sold, exploited, and then resold and exploited again increasing the profit margin.

In *South Africa*, International organized crime is present in the region, stretching from the Russian mafia to Chinese triads and West African criminal networks, middle level Thai syndicates, local groups and others. Such large networks are usually engaged in several types of crime in addition to human trafficking (such as drug smuggling etc). However, relatives, clan members and friends are as frequently noted to take part in the trafficking (especially within in the country and the region) as large organized crime groups.

In *East Africa*, family members, friends, bogus employment agencies, businessmen and businesswomen, retired prostitutes, religious acquaintances and peers are largely mentioned by victims as being involved in their trafficking. Long distance truck drivers facilitate the transport or the trafficking as a whole in some cases. While some of these traffickers are organized in groups of three and more, those are not the typical large and sophisticated organized crime groups seen in other parts of the world.

In *West Africa*, the situation appears quite similar to the one in East Africa in that the majority of the victims seem to be trafficked by smaller

groups, although there is also involvement of larger organized crime groups usually engaged in other types of crime as well. And in *North Africa*, marriage brokers, friends, family members, "begging masters", pimps, international prostitution networks and recruitment agencies are identified as traffickers.

Response to Human Trafficking in Africa

With the modern definition of trafficking in persons being agreed upon only in 2000 and coming into force in 2003 when the Palermo protocol equally entered into force, global response to human trafficking in the modern age has been quite recent with most action taken in the past 10 to 12 years. Regions of the African continent started receiving attention in the past 10 years or so, but in other regions (e.g. Eastern Africa) anti-trafficking research and programs only started some 5 to 6 years ago. To date, 43 African states have signed, ratified or acceded to the Palermo protocol. Some, such as Nigeria, have taken significant steps to implement the protocol while others, such as Zimbabwe and Swaziland, are still slow in their response.

Importantly, in 2006, the African Union adopted *The Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children.* The Action Plan places human trafficking as a priority for the African Union and requires its members to respond to the crime. The African Union, together with ECOWAS, IOM and UNODC, organized a continental workshop on the implementation of the Action Plan in Nigeria in March 2010. The document provides a holistic and wide scope response plan addressing issues of victims' assistance, criminal justice, preventive measures, capacity building and cooperation and coordination.

Many countries in Africa have already enacted national anti-trafficking legislation, including all the ECOWAS member states, Zambia, Mozambique, Swaziland, Tanzania, Mauritius, Kenya, Uganda, Egypt, Morocco and others. The challenge remains with the implementation of the legislation. While prosecution in most countries remains very weak, some progress can be mentioned. For example, in 2009, Nigeria convicted 25 traffickers and rescued 1109 victims[5].

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5   United States of America. Department of State. Trafficking in Persons Report. 10th ed. Washington: June, 2010. Print. Pg 256.

IOM Action

A holistic response to human trafficking is usually referred to as the 3Ps: Prevention, Prosecution and Protection, and to this we can add a 4th P – Partnership. IOM implements counter trafficking programs in all regions of Africa and in most countries. IOM works closely with the African Union, regional bodies such as the Southern African Development Corporation (SADC), the East African Community (EAC), the Intergovernmental Authority on Development (IGAD),ECOWAS, national governments, UN agencies including the UNODC, UNICEF and others as well as civil society. Counter trafficking activities include:

- Victim identification, protection and assistance;
- Research;
- Legislative review and drafting;
- Policy, such as national plans of action;
- Capacity building in the form of training, provision of equipment, exchange visits, drafting of manuals etc. to law enforcement agencies, governmental and non governmental service providers such as children services, gender officers, community leaders, the media etc.;
- Awareness raising and public information as a means for prevention;
- Creation of alternatives to trafficking and irregular migration through education, skills training and livelihood alternatives;
- National and regional cooperation and coordination.

Smuggling of Migrants in Africa

Migrant smuggling is a lucrative and widespread business in Africa. Driven by political conflict or economic desperation, migrants are willing to pay high prices and/or take the most hazardous journeys in hope for a better future.

Migrants are smuggled by air, sea or land depending on their financial means and destination. The journey is usually initiated by the migrant who agrees to pay a smuggler for his or her services. However, while migrants are usually only aware of the initial cost they pay the main smuggler, often they find themselves forced to pay the smugglers' additional sums along the way to cover "new" transportation costs, bribes for border officials etc. Therefore, the final cost is often much higher than planned. Migrants who are unable to meet the additional costs may find themselves stranded, detained, abused or even killed. Other migrants may go into serious debt covering the smuggling

cost (especially when the destination is Europe). This, together with their illegal status at the destination, leaves them highly vulnerable to coercion and exploitation which may lead to a trafficking situation. Employers of irregular migrants may withhold payment or travel documents while the migrant has no course of action in return. In extreme cases smuggled migrants have been reported to be held hostage by smugglers or bandits until their families back home send ransom money. Captivity may last many months and involve physical, emotional and sexual abuse. Such is, for example, the case of Eritrean and other migrants travelling to Israel and captured in the Sinai desert[6].

Unfortunately, in many parts of Africa there is no holistic response to smuggling. Migrants are often criminalized while the smugglers go unpunished due to lack of appropriate legislation or action. Migrants may be detained, together with convicted criminals, in harsh conditions for years as the cost of deportation to their home country is too high for most states to cover. On the other hand, many migrants who are caught are deported only to the nearest border in the home country where they may be left to fend for themselves in the total wilderness or where, in other cases, they can immediately try to cross again.

Mixed migration – the joint movement of both asylum seekers and irregular/economic migrants – is becoming more and more frequent as migrants and refugees use the same routes and the same smuggling services. Without proper screening mechanisms and multi-sectoral cooperation and coordination, it is impossible to differentiate between proper asylum seekers who are entitled to protection under the refugee convention and other migrants as well as other groups requiring special attention such as victims of trafficking. This is an added challenge for states and aid organizations.

Mixed Migration Flows thought the Gulf of Aden

Tens of thousands of Ethiopian and Somali migrants and asylum seekers take the dangerous route from Puntland or Djibouti across the Gulf of Aden into Yemen and beyond[7]. Men, women and children all take this route.

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6   Hotline for Migrant Workers, *http://www.hotline.org.il/hebrew/pdf/Testimonies_ from_sinay_122010_heb.pdf,* February 2011.
7   Mixed Migration Task Force. "Mixed Migration Task Force Update: Somalia". No. 1-10. Nairobi: 2008-2010. Print. No.10.

In 2010, more than 32,000 people were recorded upon arrival on the Yemeni side coming in 677 boat rides from Bossaso in Puntland and Obok in Djibouti[8]. The numbers in 2009 were much higher. Hundreds of death cases and disappearances at sea have been recorded. Smugglers are using makeshift boats, loaded with too many people and do not think twice to throw people overboard (many do not know how to swim) when the sea becomes rough or there is a fear of detection. However, the hardship does not start at sea. For weeks, months or years beforehand the migrants and asylum seekers may have been stranded along the way struggling to collect money for the boat ride and to feed themselves and their children while facing discrimination and abuse. Upon arrival in Yemen Somalis may opt for refugee status and remain in refugee camps in Yemen. Others, the majority Ethiopians, will carry on to Saudi Arabia in search of work and some will continue to Syria, Turkey and onwards to Europe.

IOM, the United Nations High Commissioner for Refugees (UNHCR) and other organizations created the Mixed Migration Task Force in 2007 to provide a coordinated response to this hazardous practice. The response includes awareness raising among potential migrants and migrants on the road to the dangers ahead and safe migration options, capacity building and sensitization of national, local and community authorities in order to improve treatment of migrants, registration, referral and assistance to migrants and asylum seekers, counter human trafficking activities, assisted voluntary return of vulnerable migrants, and regional dialogue. Activities take place in Puntland, Somaliland, Ethiopia, Djibouti and Yemen.

Irregular Migration from East to South Africa

Again a mixed migration flow, it is, however, mostly used by men and few boys only as it has proven too hazardous for women and girls (the risk of rape is particularly high). The travelers are Ethiopians and Somalis seeking better livelihood options in South Africa or beyond. IOM research from April 2009 estimated that between 17,000 and 20,000 Somali and Ethiopian men (and some boys) are travelling every year from Ethiopia and Somalia or Kenya (Somalis are given a prima facia refugee status in Kenya) down to South Africa. IOM estimates that about 50% of them will remain in South Africa while the rest

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8   Nuri, Rocco. "Deadly start to Gulf of Aden sailing season". *UNHCR*. UNHCR, 17 Sept. 2010. Web.

will collect the needed funding and continue to Europe, to North America or to Australia, smuggling from South Africa including document forgery is very sophisticated allowing migrants to reach most destinations for the right price[9]. While air and sea are used at times for part of or for the whole journey, most migrants take all or most of the journey by land, going by tracks, buses, cars and, for long distances by foot. The usual route is Kenya, Tanzania, Malawi, Zambia, Zimbabwe and Mozambique. The migrants pay an initial amount of between 1,700 to 2,000 USD per person to the main smugglers however later will be forced to add to this amount for different services, bribes and robbers[10]. The journey is very dangerous not only due to the harsh terrain and number of borders crosses but also because the migrants are regularly attacked, robbed, arrested, beaten and abused. Corruption is common and bribes are paid throughout the journey. The main smugglers, Ethiopians or Somalis themselves, work with local boat owners, trackers and others and routes can change on the spot in view of weather, new road checks and such. The smugglers, much like the smuggled, are predominantly men, aged 18 to 40. Upon arrival in South Africa the migrants and asylum seekers will all ask for asylum which will allow them to remain legally in South Africa until their case is checked. They will work in kiosks and shops for relatives or clan members until they save enough to open their own little shop or continue their journey out of Africa. While in South Africa they receive very little state protection and are often robbed and attacked by local gangs. Still, all those interviewed who managed to reach South Africa regretted the journey but did not regret arriving and working in South Africa, the remittances they manage to send to their families back home are worth the risk and suffering for them.

In late 2010, the Government of Tanzania partnered with IOM and UNHCR to organize a regional conference to discuss ways of addressing irregular migration trends in eastern and southern Africa. The African Union, regional bodies and governments from the Horn, East, Great Lakes and Southern Africa regions took part in the discussion and a Plan of Action is soon to be published guiding the way forward on national and regional levels. The conference followed an initial multinational discussion in Malawi in 2009, following the publication of the IOM research report: "In Pursuit of the Southern Dream: Victims of Necessity – Assessment of the irregular movement of men from East Africa and the Horn to South Africa."

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[9]   IOM. *In Pursuit of the Southern Dream: Victims of Necessity*. Geneva: IOM, April 2009. Print. Pg 7.
[10]   Ibid.. Pg. 115.

West Africa

It is estimated that some 25,000 to 35,000 African migrants from North and Sub-Sahara Africa cross from North Africa to Europe by boats every year. This is a small portion of the millions of irregular migrants in Europe as most of them enter legally and overstay their visas[11]. However, while this trend receives much attention, the number of Sub-Saharan Africans who stay in North Africa is higher than their numbers in Europe according to an IOM 2008 report.

West African routes are very diverse all towards Europe. Sub-Saharan routes both from West and East Africa go towards Libya, Mauritania, and Morocco and eventually cross into Europe. There are three primary land routes: through Niger towards Libya and Algeria, from Niger and Mali towards Algeria and Mauritania, and from Senegal and Mauritania via land crossing through the Sahara desert toward Morocco. Then there are three primary sea routes: Nouadhibou international port in Mauritania is a transit hub for sub-Saharan migrants to the Canaries, Senegal (Dakar, Saint Louis, and emerging new route: Mbour) to Mauritania for sea crossing to the Canaries, and from Cape Verde to the Canaries.

The journey is usually made in a few stages and may take one month or up to several years. On the way migrants often settle temporarily in towns where they can work and save for the remains of the journey. The travel by land requires again payment of bribes to police and border officials. The smugglers are former nomads, fishermen and immigrants who operate in small and loose networks.

A popular crossing from Libya to Italy has been mostly stopped due to a joint Italian-Libyan sea operation. The number of smuggled migrants reaching Italy from Libya indeed decreased dramatically creating a vacuum and thousands of African migrants stack up in Libya. many of which are now escaping Lybia due to the recent political unrest and its negative consequences towards African labour migrants, both those on route to Europe as well as the many thousands working in Libya. The effects of the very recent ongoing unrest in Libya and the change in regime in Tunisia on smuggling trends in the region are yet to be seen.

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[11]   De Haas, Hein. "Irregular Migration from West Africa to the Maghreb and the European Union: An Overview of Recent Trends". *IOM Migration Research Series*. Vol. 32. Geneva: IOM, 2008. Print. Pg. 9.

IOM Action

IOM works closely with governments in countries who send or receive smuggled migrants, regional economic bodies, UN agencies such as UNHCR, UNODC, UNICEF and others, and civil society organizations to address smuggling and mixed migration. Areas of action include research and data collection and analysis, capacity building for governments on migration management, border control, migrants' rights and protection, awareness raising among migrants and potential migrants regarding the risks involved in irregular migration and legal migration options, assisted voluntary return of migrants to their home countries, support to regional consultative processes and development of harmonized policies and practices, assistance to source communities in the form of livelihood activities in order to create local alternatives to irregular migration.

Recommendations

The responses to both human trafficking and migrant smuggling in Africa have definitely improved in the past years, however are not uniform in all regions, leaving many gaps which require further action. Many more countries in Africa have signed and ratified the Palermo trafficking protocol while fewer have ratified the smuggling protocol. Both protocols should be ratified and adhered to in order to address trafficking and smuggling while protecting victims and respecting migrants' rights. States must adopt clear and effective migration policies that protect state interests as well as migrants' rights by addressing current migration challenges in line with international standards.

More research and data collection efforts are needed in order to maintain a full and clear picture of trafficking and smuggling trends across the continent. Routes and trends are changing rapidly and lack of timely data collection and analysis means losing the battle against the traffickers and smugglers. Rather than conducting ad hoc research governments and regional organizations should be supported in creating data collection and data analysis mechanisms which are maintained for the long term.

Action must continue to increase governments' capacity to control their borders and manage migration side by side with enhanced mechanisms to identify, rescue, and assist victims of trafficking and decriminalize irregular migrants. On the other hand punishments for traffickers and for smugglers must be made appropriate to the crimes in relevant legislation. Multinational cooperation is a key to address specific smuggling and trafficking trends. As a preventive measure, long term alternatives to trafficking and smuggling should be created in the form of livelihoods and poverty reduction programs in source communities.

FRAUD AND COUNTERFEITING IN NIGERIA

Olaolu Adegbite
Advance Fee Fraud Section, Economic Section, Economic and Financial Crimes Commission, Nigeria

I am from the EFCC of Nigeria and I am here this afternoon to share with you what we are seeing purely from a law enforcement perspective. I am glad of the opportunity given by ISPAC to participate in this seminar. I investigate advance fee fraud but the topic I have been given this afternoon is on fraud and counterfeiting, which is just an aspect of advance fee fraud.

Following from the discussions held yesterday and this afternoon, I think it is necessary that I give some demographic information about Nigeria. First and foremost, Nigeria is not a lawless country as some perceive it. It is a country with a large population of 154.7 million (2009 estimates), it is the eighth largest country in the world with a huge population in Diaspora. Nigerians are present in large numbers everywhere in the world, from Mali to South Africa, from Canada to China. The commercial city of Lagos where I live has 15 million inhabitants and the population is expected to rise to 25 million by 2015. We have over 250 ethnic groups in Nigeria. It is the third largest economy in Africa, the largest exporter of crude oil in the Continent and the eighth largest world exporter of crude oil. Nigeria is a middle-income Country and an emerging market. We have enjoyed a stable presidential democracy since 1999. We have the second largest stock exchange in Africa and we are the largest African trade partner for the United States and most European and Asian countries. It is a fact that the largest multinational companies in the world all do good business in Nigeria. In April 2006, Nigeria became the first African country to completely pay-off its foreign debt, negotiated to $30 billion. Nigeria has one of the fastest growing financial, entertainment and telecommunication sectors in the world. It has three satellites deployed in space and will launch additional two in 2011.

The criminal practice of deception to obtain money, goods or service has always existed in all human community. The infamous Nigerian advance fee fraud (AFF) is a modern version of the 18th century 'Spanish Prisoner' confidence trick. Forgery of business and government documents and counterfeiting of currency or monetary instruments are essential ingredients of advance fee fraud scams. Industrial scale circulation and export of forged

documents and counterfeit monetary instruments exploded in late 90s in furtherance of AFF scams. The counterfeits are primarily used to:

a)   Induce victims to deliver property
b)   Appeal to authority & trust
c)   Provide illusion of financial benefit and receipt of large reward with little cost
d)   Blackmail victims at terminating stages of scams

Prevalence of economic and financial crime is a disturbing social issue that negatively impacts the Country. It generally:

1.   Threatens the national economy, commerce and political stability
2.   Increases cost and undermines consumer trust & confidence in financial institutions
3.   Attracts negative national reputation
4.   Impacts business brands
5.   Affects integrity of all official government documents
6.   Has great financial and emotional cost to victims – both local and foreign
7.   Leads to loss of foreign direct investment
8.   Fuels organized crime (e.g. human trafficking, identity theft, AFF, etc.)
9.   Impacts e-commerce

We have adequate institutional and legal framework to tackle this menace. The Nigerian government created a specialized agency, the Economic & Financial Crimes Commission (EFCC) in 2003, and designated special Judges to adjudicate over related cases, and passed relevant legislation to define, proscribe and sanction forgery of documents, cheques, promissory notes or other negotiable instruments.
The typology of counterfeiting in Nigeria can briefly be categorized as follow:

• Counterfeit court, government & business documents which are used in lottery, inheritance, charity, romance, crude oil, fund transfer, employment, contract scams etc
• Counterfeit monetary instruments which are used in e-commerce & reshipment scams
• Counterfeit currencies (mostly US dollars) which are used in black money, fund transfer & inheritance scams
• Counterfeit local cheques and dividend warrants which re used in bank fraud and capital market scams targeting Nigerian victims

- Counterfeit identity documents which are mostly used in human trafficking, processing visas and residence permits, sham marriages, identity fraud, opening of fraudulent bank accounts and money laundering, as well as, pick up of fraud related money transfers

It is imperative that I share with you some of the trends of counterfeiting that we are seeing. Counterfeit financial instruments are manufactured in commercial quantity on order by legitimate printing presses in Lagos using lithographic machines. The qualities of the counterfeit products are increasingly getting better. They are exported to individual victims and reshippers, foreign distributors and other accomplices.

The Advance Fee Fraud & Other Fraud Related Offences Act of 2006 defines activities in this category as including documents such as letters, maps, plans, drawings, photographs and also includes letters. It also includes documents transmitted through fax or telex machine or any other electronic or electrical devices, a telegram and a computer printout. Further, the Act included sections on monetary instruments such as coins or currency of Nigeria or of any other country as well as traveler's cheques, personal cheques, bank cheques, money orders and investment securities in bearer form. The Act included sentences of between 7 and 20 years in prison.

In terms of perpetrators, we have a range starting with the outright foolish, such as a suspect who presented a single $1 million note to cash at a Lagos bank. We have sadly arrested many young boys using counterfeit cashier, gift cheques and postal money orders, to buy merchandise online. Counterfeit foreign currencies, mostly US dollars are also used in fund transfer and black money scams. Airline tickets and identity documents are also counterfeited and presented at foreign Embassies to support immigration applications.

Bulk smugglers are increasingly being arrested at our international airports and land borders en-route other West African countries, South Africa, UAE, India, UK & USA. The mules adopt classical smuggling methods of narcotics syndicates – concealing bulk cheques in books, postal packages, foodstuff and even strapping them to their bodies. Foreign mules are sometimes used to smuggle counterfeit financial instruments out of Nigeria. This is a counter strategy against interdiction of Nigerians at land borders and airports. Sharon Thorpe, an American Citizen residing in North Carolina who was invited to Lagos by her Nigerian boyfriend in December 2009, was arrested in February 2010 at the Lagos airport while boarding Qatar Airways flight back to Washington DC through Doha. A search of her luggage yielded about $700, 000 worth of counterfeit financial instruments of various American banks. She was later convicted to 2 years imprisonment by the Federal High Court sitting in Lagos. How many non-Nigerians are involved in this act remains unknown.

Our current best practices being applied to deal with this problem are holistic. Vigorous prosecution of advance fee fraud related cases remains the most potent weapon in our arsenal. The fear of imprisonment and asset seizure is a strong deterrence for prospective criminals. Between May 2003 and November 2010, the Lagos AFF Section of EFCC has arraigned 490 cases involving over 1000 suspects. Of these cases, 256 were successfully convicted, 17 discharged and others remain pending before the High Courts. Two fugitives were also extradited to the United States within this period.

A good example of the response was Operation 'Octopus,' which was conducted in September 2005 in the Oluwole area of Lagos and was a joint operation involving officers of the Nigeria Police Force, Department of State Security Services, Customs Service, Immigration Service and coordinated by the EFCC. Oluwole was a notorious counterfeit document bazaar that has defied solution in the past. The operation effectively closed down the bazaar and eventually disrupted the production and supply of counterfeit financial instruments and identity documents. All the 19 separate cases that arose from the raid have since been successfully concluded at Federal High Court Kaduna, while all the suspects were convicted to various jail terms.

The EFCC collaborates actively with private industry facilitators, especially the Nigeria Postal Service & all courier companies operating in Nigeria to disrupt the transportation of counterfeit documents through the interdiction of out-going and controlled delivery of in-coming fraudulent packages. Operation 'Stop Payment' conducted at the pre-export mail processing center at the Murtala Mohammed International Airport Lagos between July and August 2007 is a good example of the great impact that good multi agency collaboration can achieve. The interdiction exercise was conducted with Officers of the United States Postal Inspections Service and the British Serious Organized Crimes Agency working with Operatives of EFCC and staff of Nigerian Postal Services in Lagos. Within one month 15, 129 counterfeit cheques, including 6, 948 blanks ones were interdicted. The cheques were variously worth \$145,969,065.36, € 211,077,218, £ 2,054,947 and Can\$120,450 with the cash sum of \$13,700.

Daily interdiction to stop these counterfeit instruments from reaching their overseas destination is a continuous programme. Between January and December 2009 some 6,895 outgoing packages were stopped. They contain 5,972 blank cheques worth \$ 46,023,322, £ 13,263,579 and € 14,961,054 along with a cash sum of \$77,800, 38 international passports, 47 drivers' licenses, 1,058 scam letters and 5 automatic teller machine cards. January to November 2010 saw the interdiction of 4,892 packages all valued at \$147,096,245, £ 3,492,039 and € 4,030,254 along with \$14,400 in cash, 5 international passports, 1 drivers' license, 2,582 scam letters and 10 ATM cards.

The major challenges we experience in our overall enforcement initiative

include intelligence gaps on true identities and addresses of perpetrator. Lack of lawful electronic interception legislation and mobile telephone tracking technology has also greatly encumbered our acquisition of time sensitive intelligence. Sometimes we see cases of collusion of postal agents & border control staff in the process of exporting these counterfeits. We have inadequate collaboration with other regional law enforcement agencies on information sharing. Some foreign law enforcement agencies are also reluctant to conduct controlled delivery of outward bound consignments and locate major foreign accomplices.

It is futile to also pretend that we possess adequate technical capacity to conduct forensic analysis of print paper and ink in recovered exhibits to trace their source. The overall victim education is inadequate and we still have the arduous task of addressing common consumer myths. The average citizen unfortunately still harbors the false beliefs that all websites are legitimate, there is shortcut to wealth, all companies are legitimate because they are registered by government, scams always involve large amount of money and that identity compromise is safer than monetary loss.

Moving forward we must improve international law enforcement collaboration in the West African sub-region and with other key countries. Nigeria is surrounded by French speaking countries and the existing professional engagement by all concerned law enforcement agencies is abysmally low. Together we can conduct a threat assessment on the real scope of the problem. We need to better engage the relevant private industry facilitators (printers & postal services) in prevention, disruption and public education processes and build the capacity of our investigators, forensic analysts, prosecutors and judges.

There is an urgent need for Nigeria and other West African Countries to create credible national and regional criminal databases and establish a robust national identity security strategy comprising of:

1.   Document issuing agencies – registries of birth, marriage & death, passport office, national identity card, drivers license
2.   Document verification service hub and
3.   Querying agencies – embassies, banks, regulatory & law enforcement agencies, employers, courts, traffic control, educational institutions, criminal registries

The current intelligence gap on the manufacturing locales and identities of prominent exporters of counterfeit financial instruments needs to be breeched.

Most importantly the cultivation and reinforcement of corporate and individual integrity within the regional law enforcement community will definitely engender better confidence and trust from our foreign counterparts who can thus share their best practices with us.

PHARMACEUTICAL COUNTERFEITING

Jeremy Wilson
Associate Professor Michigan State University, USA

I am the director of the Anti-Counterfeiting and Product Protection Program at the Michigan State University. Our mission is to be a sort of independent broker between industry, government agencies, academia and other stakeholders in the fight against counterfeiting. Most of our work centres around research, analysis, education and outreach activities in partnership with the stakeholders to give them lessons on anti-counterfeit strategy. Among other projects, we have been developing a body of work looking at counterfeit pharmaceuticals in Africa and, as part of that, I was asked to speak about the economic effects of pharmaceutical counterfeiting. Before I go into that, what I would like to do is to talk about some of the broader impacts. Pharmaceutical counterfeiting, as you can imagine, has multidimensional effects: it impacts consumers because counterfeit pharmaceuticals impair their health and an insufficient amount of the active ingredient could cause them to grow tolerance for the active drug and make curing them even more difficult. Industry suffers through a loss of sales, brand reputation, competitive advantage and brand value. Government suffers through loss of taxes and expenses for fighting counterfeiting. The general economy suffers from shrinking of industries and loss of jobs and society suffers in that counterfeiting of pharmaceuticals is tied in other forms of traditional organized crime. What I would like to talk about today is the questions we had when we started putting together comments for this and then go into what we found in terms of the dimensions of the effects. As part of that I want to have a little discussion on how much we know, or we think we know, and how reliable these estimates are and from that springboard into a discussion on formulating an evidence-based response.

So we begin fairly modestly with what may seem simple questions: what types of economic effects exist as a result of pharmaceutical counterfeiting and what are the magnitudes of these effects? We did a systematic review of the existing literature, we looked at what was being published by academics and researchers, government agencies, non-governmental agencies, private institutions as well as the media to try to put together what we know about the effects. As you can imagine, the literature identifies many dimensions: jobs; tax and sales revenue; innovation and growth; foreign investments or lack thereof; public health, not just in terms of the consequences for the individual but also

the costs of treating those who become more ill and mitigating those effects; direct anti-counterfeiting measures, replacing the counterfeit products and mitigating the damage. What we found through 30 different sources that we identified was that some dimensions were talked about more than others; sale and tax revenues were the most prevalent dimension discussed and the least frequent had to do with innovation and growth, anti-counterfeiting measures, replacing the products and mitigating the effects of counterfeit. We do not have an explanation for that; maybe sales and tax revenues are more easily identifiable, maybe easier to measure but why those differences exist, we do not know. We also see from this that private organizations seem to be leading this discussion and less so government and non-governmental organizations. What we found is that the potential reduced sale revenue is concerning and I apologize ahead of time because the next few slides are a bit thick on facts. I will try to go through them quickly but I wanted to summarize for you what is floating out there in the literature.

A 2009 report revealed that gains from 45 million counterfeit antimalarial medicines equal about 438 million dollars, more than the GDP of Guinea Bissau. Also counterfeit drugs in Kenya, which are about 30-40% of the drugs sold, equal approximately 130 million. What we see with these figures is that we have to assume that the value of counterfeit sales is equivalent or proportional to the value of a legitimate product. In this last bullet, we see some direct estimates that in South Africa the counterfeits are costing the country more than 260 million dollars. Between January and June 2010, the police seized more than 13 million dollars worth of counterfeit products. So we are talking about some fairly big numbers and a big number of counterfeit products translates into high amounts of taxes forgone. Here we see that in various areas of Africa the value of counterfeits can range anywhere from 219 million to 642 million dollars. In East Africa, about 500 million dollars in revenue from unpaid taxes was lost due to counterfeit goods in general. Tanzania is losing about 370 to 617 million dollars per year due to tax evasion related to counterfeit goods. Many jobs are lost in the process. In East Africa, we see multinational organizations either downsize or completely shut their doors; EverReady is a good example where we have seen the market share shrink. It is not a pharmaceutical industry but every time you take an industry away and people are losing jobs the economy suffers which can increase the demand for more inexpensive pharmaceuticals. As a direct reference, we see in Nigeria the pharmaceutical industry operating at about 60% to 65% of its potential impact so we see that there is an impact on jobs there. We found two sources talking about the public health effect: about 700,000 Africans die annually from consuming counterfeit antimalarials and tuberculosis drugs and about a million of those occur worldwide each year (about 200,000 relate to antimalarial drugs).

You may ask: what exactly does this have to do with the economic effect? These health consequences have been shown to impact gross domestic product in various countries. HIV and AIDS deaths of adults in some Sub-Saharan African countries may reduce the annual GDP by as much as 1%; in South Africa this is estimated to be about 17% over the next decade and the economic effect of TB-related deaths in Sub-Saharan Africa is estimated to be about 519 billion between 2006 and 2015. Malaria is estimated to cost African nations at least 12 billion a year in lost economic output.

Innovation and growth are the third most discussed dimensions and here we can think of reduced economic incentives to develop new products and also a decrease in brand value, brand reputation and competitive advantage.

We could not find direct references to counterfeit pharmaceuticals so we tried to draw a corollary to the international music industry and also the information and communication technology industry. What we found was that about 80% of the international music, CDs and computer software in Africa are pirated and about 40% of the local Nigerian music industry sees that its products are being pirated. Africa in general is losing about 1 billion dollars annually is this sector. The information and communication technology sector, as we see, is a big industry with about 10 million direct jobs that contributes about one trillion dollars to the global economy. So every time that there is a counterfeit market involved that is competing with legitimate products, there is a direct impact on the ability of businesses to grow and flourish. We see this fairly directly with foreign investments: there have been studies which have shown that countries are less likely to invest in others if they have a relatively high prevalence of counterfeit products. Again, it is an extra competitor in the market. Multinationals are less interested to operate in areas where they see their products being copied, they are less likely to make money there and instead suffer damage. In Kenya, we see right holders lose about 390 million dollars per year at counterfeiting and piracy.

There is also the direct cost of anti-counterfeiting measures; we could not get precise estimates of what these are but we could differentiate some of the costs: public education with awareness campaigns for the people to think about what they are purchasing and if it is safe; healthcare costs for those who have taken counterfeit pharmaceuticals; securing the supply chain; typical enforcement prosecution; housing; destroying seized evidence and also technology costs. A colleague of mine has been doing some work in Nigeria evaluating some measures there and they have estimated that the cost of radio frequency identification (RFID) tags alone (not counting the computer system, the readers, the management,...) assuming that 140 million Nigerian citizens take about 10 pharmaceuticals per year, would cost about 140 million dollars just in incremental packaging costs. Then there is replacing the counterfeits and

mitigating damage costs. Whenever counterfeits are discovered they need to be replaced and so what we see here are expenses for the government in terms of government dispensary stores, teaching hospitals, etc.. We also see more indirect relationships with other industries. Here you see an entire grain harvest in the Ukambani region of Kenya that went to waste as a result of a counterfeit grain preserver. Again, you might ask: what does that have to do with counterfeit pharmaceuticals? The fact of having an entire harvest going to waste can contribute to famine and further malnourishment which can reduce immune systems and make people more susceptible to counterfeit pharmaceuticals.

Are these estimates reliable? What we found is that the economic effects are largely unknown and you may ask: how is that possible if we just talked for six slides about all of these numbers? What we found was that the dimensions were identified but there were a lot of holes. We had to draw in corollary industries that illustrate the effect of some of these and where the estimates exist there is very little – if any – methodological description of how exactly they were derived. When we decided to put together comments for this meeting, what we anticipated was talking about these estimates, how they had been derived and the different ways of calculating them but we found that that actually could not be done because there was no description of the methodologies in the studies. So we ended up taking a turn and wondering what we can do about developing evidence-based platforms to think about anti-counterfeit strategies. Our basic takeaway message is that estimates should be considered unreliable without any sort of description of a defensible method to obtain them. We see this in the US where there is obviously a lot of pressure to identify what the size of the problem is. We need to think about public policy responses and about how to prioritize this. We need to get a sense of the size but it is very difficult to measure it, as you all know. There have been three commonly accepted statistics on US industry losses and recently the US Government Accountability Office did an analysis to trace these estimates back and to see where they came from. They basically found that those estimates cannot be substantiated or traced back to underlying data sources or methodologies. This is just an example to show that there are numbers out there but we need to know how they came about before we put a whole lot of stock into them.

Why do we not have these estimates? They are hard to get. The crime is illicit, clandestine and very complex and this makes identifying it and the outcomes it leads to very difficult. An industry that collects a lot of this information also has competing interests. On the one hand, they need governments to help step up enforcement efforts to counteract counterfeits; on the other hand, they do not want to raise a lot of awareness on this for fear of reducing their consumer base. There is also little support for data collection, analysis and research on the problem so we have not seen a lot of inroads

methodologically. A response that is unreflective of data and analysis will likely resolve in strategies that are more ready-fire-aim as opposed to ready-aim-fire. We have actually identified some other areas as well. One of our previous papers looked at the processes of counterfeit of pharmaceuticals in Africa, at supply and demand issues and found additional gaps even beyond the economic effect.

Formulating an Evidence-Based Response

First, I want to briefly mention why research and analysis is important. This may seem fairly academic but I want to highlight, to hold the flag for why research is needed. We can improve our understanding and shape the discourse. We need to understand the nature of the risk, how big it is and how it happened so we can start to have open discussions about intervention strategies, responses and so on. We also need to think about how to prioritize this problem. We all know that we are in a time of shrinking resources and we need to be more efficient with our resources so we need to think about where product counterfeiting generally and pharmaceutical counterfeiting specifically fall among all these other priorities that we talked about these last couple of days. Analysis can help to frame that policy response and can also help to create interventions and solutions. There is a long and rich history of criminal justice studies that have shown how understanding specific elements of a problem and defining it very concretely can help develop tailor-made strategies and reduce the problem. Research can help to identify and evaluate these strategies and also help to develop and implement promising practices. The idea is that we have got to think about what some of the key questions are. Here are just some basic questions and in some of our previous papers we talked about others specific to the problem of pharmaceutical counterfeiting in Africa. We need to think about issues like: when does it occur? How does it occur? How big is it? What are the effects? What are our current resources to combat it and what can be done to bolster our response? Once we have these key questions we can think about building a science to advance policy but that needs to start with a foundation of data; through data we can back research, develop lessons which then go back to the field in the form of anti-counterfeit strategy.

Now, I would like to talk about one of our projects where we are bringing some of this together. Much of our work is informed by the crime triangle which identifies basic elements of a crime problem, including characteristics of offenders, victims' locations and factors that influence them. We use the problem-solving process to gather that information and use it in a systematic way to develop data driven solutions. Then, as we talked about yesterday, we draw upon situational crime prevention.

What can we use to reduce crime opportunities? We start from a basis of these established tenets of crime prevention and think about how we can use that to understand pharmaceutical counterfeiting and counterfeiting generally. One of the specific projects that we have been developing is an incident database of counterfeit pharmaceuticals in the US. As I mentioned earlier, our mission is to be that evidence-based voice in anti-counterfeit strategy and so our goal is to get beyond the discussion of the single case and the anecdotes on counterfeiting and into the actual nuts and bolts of it, looking at hundreds of incidents at a time so we can really get to understand its root causes, consequences, etc. Over the last few years we have developed an integrated search and identification protocol to gather information on counterfeiting incidents in the US and we are hoping to expand that globally and to all products as well.

What I wanted to show here was just one of the cases and some of the information we have. For any individual case we might have hundreds of pages of information about it. This slide links the crime triangle with the information that we are getting, which will go into the problem solving model. This one in particular is a 42-million-dollar case where these individuals worked together, among other things, to give terminally ill patients chalk water, basically, for their medication. So we have got information on 19 individuals across several states. We have got information on the places including the label makers, the hospitals, the medical distributers and so on. We have got information on the victims, on the agencies that were involved in the process. So imagine gathering this kind of information and more but on hundreds of cases at a time. This can help us identify the scope and magnitude of the problem, how big it is, what its nature is and how it is changing over time. This can be helpful for conducting systematic risk assessments and thinking about the impact of the new strategies we implement.

Right now there is virtually no foundation of data. Industry collects data, government collects data but there are no data out there that can be analysed for the public good. This type of analysis also helps us understand the chemistry of the crime: who is involved? How does it happen? Where does it happen? What are the contexts and corollaries? By understanding these features, we can get at the root cause and actually solve these problems. We can also start to understand how these incidents are detected, who detects them, under what circumstances, what we are learning about the investigation, response and outcome – this can be fed back into training curricula, etc. – and then to suggest other types of information that can be collected and shared among government officials and so on. The idea is that with this type of approach we can start to develop an evidence-based anti-counterfeit strategy. Thanks.

Part III

CORRUPTION & MONEY LAUNDERING

Chair
STEFANO MANACORDA
Professor of Criminal Law, University of Naples II, Italy; ISPAC Board Member

One of the more important discussions that ran through all of the presentations was the catalysts for transnational organized crime. The search for root causes and environmental factors is a constant of research on transnational organized crime, and thus it came as little surprise that this topic arose frequently throughout the conference. Of those discussions, however, two topics were due special consideration. The first was the relationship between corruption and transnational organized crime. Corruption in Africa has received significant attention from researchers and practitioners, but rarely have these discussion explored how corruption serves as a catalyst to or a result from transnational organized crime. The other topic was that of facilitators—third party actors that provide critical goods and services needed to operate criminal syndicates in Africa.

This section draws on two presentations that explored these topics. From these presentations and from other discussions, three observations came to light. The first is that corruption is indeed a foundation for transnational organized crime in Africa. Time and again, the experts who attended this meeting noted endemic and often high-level corruption as being co-located with major criminal enterprises in Africa. Regions with endemic corruption were seen as being more prone to hosting illicit markets than those with lower levels of corruption. Moreover, high-level and/or endemic corruption was often found in locations where foreign transnational criminal organizations were operating in Africa.

Second, corruption was seen not only as a precursor of transnational organized crime but also as a generator of it. A number of experts noted the role of corruption in giving rise to various forms of transnational organized crime. For example, some noted that without high levels of corruption, the growth of international financial crimes and frauds would not have been possible. In their view, corruption undermined the social fabric to the point where it was seen as acceptable to bilk victims through intricate and often international fraud schemes. Corruption was viewed as a precondition for transnational organized crime and as a catalyst for it.

A final observation from these and other discussions during the conference was on the role of facilitators. The participants often referenced different types of facilitators when discussing the various forms of transnational

organized crime the conference explored. While illicit actors such as document fraud experts and money launderers were frequent, the (sometimes unwitting) role of indigenous role of private companies and legitimate businesses also arose quite frequently. Even corruption was at times framed as a facilitating factor, especially in light of the role that corrupt officials play in allowing transnational organized crime to flourish.

CORRUPTION AND STATE CAPTURE

JOHN HEILBRUNN
Associate Professor, Colorado School of Mines, USA

My paper addresses issues of organized crime, state capture, and corruption in Africa. From 1997 to 2001, I was the Senior Public Sector Reform Specialist at the World Bank and I was the thematic coordinator of the anticorruption initiative that has been approved in 1997 by the Bank's Board of Directors. My job was basically to mainstream the anticorruption work into the Bank's lending or tactical assistance programmes so I gained - for my sins - some expertise on corruption as an international development issue. My original doctoral training was on French-speaking Africa and I have continued working on development in Africa. At the Colorado School of Mines, I teach on Africa, and I am writing a book on natural resources, petrol states and African development.

One thing that I feel should be emphasised when we talk about anything in Africa, especially organized crime and corruption, is its complexity. In Africa we find many ancient civilizations, but the idea of a bureaucratic nation state based on a Weberian notion is fairly new. The African states are fairly new. Nigeria, for example, is a composite of different nations and its citizens speak approximately 500 different languages. So what I would emphasise is that in thinking about Africa it is important to emphasize that these are new states that are only now defining the institutions by which they will constrain the activities of their citizens and their citizens will impose accountability by which they may control their political leaders. I sometimes hear colleagues wondering why we do not consider Africa as a single entity; they seem to forget that only in 1960 that many African countries achieved independence and began to form their national governments.

When we are talking about the issue of international organized crime in West Africa, it is important to recognize that criminal organizations that enter Africa do so according to the rules that the Africans define. Colombian drug lords do not set the rules; they do not capture these African countries. It is possible that the Colombian drug cartels have moved into Guinea Bissau, taken over state agencies, and that they are telling the Bissau citizens what to do. It is equally possible that African criminals are manipulating the Colombians. In Africa, it is probably the Colombians who are being told what to do.

The problem is that there has been a breakdown of the rule of law in a

number of weak and very fragile states. Some of these states recently emerged from civil wars while they are post-conflict they are not necessarily criminal states. Jean-François Bayart and his collaborators in *La Criminalisation de l'Etat en Afrique* argue that criminal states operate in Africa. They talk violent entrepreneurs, who use their position to gain wealth from citizens and in international transactions. Although I think Bayart's analysis is a bit sensationalist, we still have a number of criminal activities that are common in Africa. For example, I used to live in Benin and I can remember going to Parakou where a market operated where people could go up and buy a used car that had been driven across the Sahara. In all probability, it was a stolen car. The resale of stolen cars may occur in Africa as anywhere else; it is not necessarily a solely African phenomenon.

Take the example of smart cards and illegal money laundering. In 2008, I delivered a number of talks on fighting corruption in Africa for the US State Department in Burkina Faso. In Ouagadougou, billboards all over the capital advertise smart cards. People can buy smart cards on which they can deposit substantial amounts of money in up to four different currencies. They can then transport those cards overseas and use them like credit cards to deposit then laundered money in different banks. A series of studies that the Rand Corporation conducted showed that people were taking packets of these cards and moving substantial amounts of cash internationally. It surprised me to see such availability in Burkina Faso because it is a poor Sahelian country; the majority of its population is agrarian. So the question arises, who in this impoverished country is buying these cards and transporting cash internationally? This brings us back to the considerations of the entry of international organized crime and individuals who traffic in illicit arms as West Africa suffers more and more conflicts.

It is necessary to return to one point that needs to be re-emphasised – and I will come back to this throughout this talk: international organized crime cartels in Africa are operating under rules and conditions that the Africans define. They are not calling the shots, they are entering Africa, and the Africans are defining what they are doing. If we think about organized crime in Nigeria; the Nigerians are not going to be told what to do by somebody from Colombia. The Nigerians enter partnerships of convenience, they want to make money and they are very cleaver people. In these important respects the operating methods of criminal organizations in Africa is substantially different from the classic definitions of organized crime.

When most scholars and specialists talk about the classic model of organized crime it is really the Sicilian mafia to which the model refers. Consider Diego Gambetta's *The Sicilian Mafia*, a superb study of the act of establishing property rights and using violence to protect those property rights.

Racketeering was how these criminal organizations themselves stabilize property rights. A second important element of criminal organizations is exclusivity. As Schelling pointed out decades ago, criminal organizations are monopolistic; organized crime is really monopolized crime. For example, a drug cartel tries to monopolize the distribution of drugs. What is perhaps most intriguing about organized crime in Africa is that the drug cartels are willing to forego their monopoly over distribution in exchange for transhipment points and access to new markets.

Again, in Africa, the drug cartels may enter but they reach agreements with African cartels; they are not going in and capturing everything. In fact, many experts would argue they are probably being captures themselves. But what is unusual in Africa, and comes with drugs cartels, is the use of violence. Violence is somewhat common – we could talk about violence in Nigeria, in the Niger Delta – but the type of violence that we see in Mexico today is rare in African states that are not in a civil war. According to the UN, the drug cartels are actually criminal networks; they operate under rules that deny hierarchies of authority. These are networks of criminals who work together and cooperate for the sole objective of gaining wealth. So leaders of criminal organizations or drug cartels cooperate to establish networks. They develop certain forms of behaviour that operate within the network in which they are working. These networks are purposive organizations that pursue specific purposes.

To return to my point, it is necessary to recognize that the Africans are opportunistically using the drug cartels. One need only recall the observations of the famous British Africa specialist Margery Perham, whose dissertation on native administration in Nigeria made the point that although the British subjugated them militarily when setting up the colony, the Nigerian elite saw colonialism as a means to get commercial ties to Europe that were being denied to them before the colonial period. I think that Perham's point is fairly well made – there were many losers with British colonialism in Nigeria who lost their position of influence. Those Nigerians who had set up trading houses along the Niger River, for example, lost. However, the middlemen who facilitated commercial transactions between British trading companies and Nigerians who were purchasing the products became extremely wealthy. The opportunities led to the growth of the Ibo merchants. No less so, the Yoruba with their great commercial traditions gained significant profits. So Perham's point was that the Nigerians who were very clever people and were able to take advantages of opportunities British colonialism created. No less so, leaders of Nigerian criminal organizations are replicating this process in respect to their relations with the drug cartels or the other crime cartels that are operating in Africa today.

A discussion of state capture is poses difficulties; first, we need to consider opportunism among criminal both African and those from elsewhere.

Opportunism is occurring on the part of the Africans as well as of the drug cartels or the other criminal cartels like the arms dealers. These people, however, are cooperating for their own benefit; it is not a domination scenario. To think about state capture you will have first to think about what is a state. It is absolutely crucial to separate the complex organization that is a state from a government. A Weberian state such as exists in Europe and North America is conceptually a complex organization: it is composed of many organizations that includes the judiciary, the civil service, the military, and elected and appointed officials who are numbers of the government. The state is not a government; the government is part of the state. Talking about state capture implies that external actors might capture this complex organization with jurisdiction over a defined territory and a monopoly over the means of violence.

It is unlikely that external criminal organizations can capture the African states; their administrations are diffuse and really quite partial. In some public agencies, the military is active; however, in other areas of official operation, such as a ministry of education, the state may be a marginal organization. For instance, it may not be present at all in the rural sectors. So the idea of a Weberian state is quite unusual in many African states, especially the higher the degree of poverty, the less the degree of the state and the ability of the state to penetrate outside of the capital cities.

The other point is the extent of "neopatrimonialism" and the insertion of clientelist networks that dominate certain areas of activity within these political organizations. It is very hard to talk about state capture because the people who dominate these clientelist networks embed their organizations in the society and political economy. Accordingly, they are powerful and cannot simply be removed. One needs only recall the godfathers in contemporary Nigeria to question whether even the most ruthless Colombian drug lord would be able to arrive in Nigeria and remove one of these godfathers? I would have great fear for the individuals trying to do so. So one returns to the problematic consideration that capture of weak African states is even a possibility.

"State capture" is an expression that the World Bank popularized in the academic and development communities in 1999 and 2000 when their experts completed a series of studies on Eastern Europe and the former Soviet Union in which they were looking at corruption and "administrative corruption" and "state capture." The issue was trying to understand how it was that the former oligarchs of the former Soviet sphere of countries were able to gain control of so many governments and the processes by which they did so. The World Bank studies suggest that the oligarchs would manipulate the definition of laws, the rules and the decrees that were coming out of the governments to give themselves an ability to seize the processes by which those rules were made. Therefore in privatization of state-owned properties, for example, the oligarchs

passed laws and decreed procedures so that they could actually buy state-owned properties. These criminal organizations would buy the state-owned properties and use any of a number of strategies. Some would sell the assets and break up the former industries for their sale in parts, actions that were in complete violation of what they were supposed to be doing. This process of purchasing formerly state-owned enterprises to break them up for profit was considered state capture.

A similar process is not what is going on with drug cartels, arms dealers and the human traffickers in Africa. Criminals are not redefining laws because frankly many of the laws are not being applied. Laws exist on the books, but no agency has a mandate, or the will, to apply the statutes. The process is really one that protects illicit and non-transparent forms of influence in many African states. So questions include what accounts for the illegal activities such as human trafficking, drug smuggling, arms sales, and illegal re-exportation practices that are common in Africa? How do international crime cartels get access? What is their point of entry?

Of course their point of entry is through bribery. It is not like they are going to come in and set up a political organization they can dominate because it is quite apparent to Africans that the Colombians driving around Lagos or other African cities in their Hummers and in their expensive cars are definitely not from Lagos. They can come in and gain entry through a function of bribes, deals, and even threats; they can make agreements with African cartels and then use threats to develop their protection rackets. But they encounter limits in the actions they might endeavour.

When talking about the African people it is helpful to recall that we are talking about very poor people and very poor countries. For drug lords trying to set up an organization, they may get into the country on the basis of personal relations, but it is very hard to stay indefinitely in the African countries. For example, about six weeks ago I was in Lomé, Togo, where I was discussing with the Togolese government officials about the issue of Colombian cartels coming into Africa. They were very interested in the topic because they were scared of drug cartels that could challenge their hold on power. For those of you who do not know much about this country, a despotic, dynastic regime has dominated Togo since 1967. It is a country where people are incarcerated without charge and die; the government bears elements of a racketeering organization that does not engage in criminal acts at the international level. The Togolese policymakers with whom I spoke were afraid of the Colombians; they denied them visas, those who got into the country were placed under surveillance; they arrested them at the borders when they tried to sneak in and to talk to people about setting up transit points in Lomé. Maybe it was a concocted story, but it made sense knowing the weakness of the Togolese

government that perhaps officials did not want these Colombians coming in who could not control.

It is unlikely scenario that drug cartels or other criminal organizations are capturing African states because the countries are weak. First, African polities are not firmly established; they are still in the process of defining themselves. Their fiscal situations are disastrous. Perhaps the cartels can try to seize a ministry or small area of the country, but many of these very poor African countries are desperately trying to get Millennium Development Grants. It is difficult to accept that desperate leaders seeking funds are going accept the short-term payoff from working with a drug cartel instead of the larger payoffs from making arrangements with the donor community. One has to remember that international organized crime cartels in Africa are guests, they have limited influence and their ability of using violence in these countries is really contingent on the Africans accepting it. It would be very foolish, I should think, of the Colombians to come in and try to engage in violent acts in many of these African countries; it would be a disaster for many of them.

Another point is that the concept of state capture implies the presence of a bureaucratic state that is absent in much of Africa. The bureaucratic state may define what happens in Europe and in North America today, but it is not particularly the case of what we find in Africa. Indeed, in Africa fiscally impoverished states operate with a civil service that is really not present. The civil service is so often dysfunctional; it has high levels of corruption, lacks trained staff and few fiscal resources. Each ministry and each public sector agency is stove-piped; ministries do not cooperate with other agencies. A high degree of apathy and absenteeism amongst civil servants who work in clientelist networks present in specific ministries. For example in Ghana before the election of President Atta-Mills, some of the ministries operated according to norms of republican democracy; other ministries, however, ran under laws and their rules that were authoritarian and recalled the time when Rawlings was still a military leader. Still, the overall logic that was determining interaction within that ministry was based on clientelism. This process of change was really quite messy and uneven – and this uneven reform was in Ghana is considered one of the star states.

Corruption is a correlate of organized crime. Like organized crime, corruption thrives through opportunism. Questions arise of finding ways to analyze corruption and thinking about what is revealed? What is it that we are looking at? The idea is that if we find corruption at any level of the state that means the state is systemically corrupt. Recently studies have looked at corruption as *systematic*, where politicians manipulate systems within governments in order to have widespread corruption. In Africa there is a certain element of impunity that is consistent. It is disturbing the extent to which a lot

of African leaders, civil servants, and government officials operate as if they do not have to worry about anything. If Mr Dos Santo's daughter in Angola decides that they want some money, they will take it, and they do so with breathtaking impunity. One wonders how can they do this? It is because no one who is going to prevent them or hold them accountable for theft of state resources. The issue of diversion of state revenues and resources - for those countries that have a lot of resources, which are a lot of the African countries – is consistent with low levels of state construction. So low levels of state construction cause a cycle; high levels of state corruption reduce tax returns. Without taxes it is difficult to build a state. A partially constructed African state therefore has low taxes, high levels of corruption, and may be expected to remain so.

What is corruption? Corruption is an action that may be measured by scale. Petty corruption is widespread in Africa and involves small amounts of money. In Togo, as in other African states, corruption in the civil service is common. For example, an imaginary scenario in the Togolese customs office might be as follows: on Friday morning a custom officer would be expected to fill an envelope and pass it up to his chief; the chief would receive envelopes from all his officers. He then puts a part of the envelope into another envelope and passes it up to his chief. It goes on that way until a deposit is made into an account that is controlled by the Minister of the Interior. This is not just in Togo, it happens everywhere in Africa. This is how small, petty corruption feeds into grand corruption with large amounts of money and involves different activities. Other problems with corruption occur in procurement and false invoicing; embezzlement or theft of government resources; an entire lack of transparency and the use of office to award contracts; changing cargo manifests at the borders and helps people bringing things in (this is one of the ways in which drugs enter); manipulating business regulations. So there are both types of corruption.

Systemic corruption was quite nicely discussed in the TSKJ bribery scandal in which a four-company consortium allegedly orchestrated a 180 million dollar bribe to several Nigerian ministers to get a 6 billion dollar contract. Although Dick Cheney, the former vice-president of the United States, is currently under indictment in Nigeria but it is doubtful that he will be extradited. There are other elements of systematic corruption where people manipulate the political system. There is a case going on right now in France where they are trying to figure out why the Bongo family has so much money in all these accounts (it is millions of Euros). There are systems where people have manipulated rules and changed the ways in which businesses are conducted.

When we talk about corruption and types of organized crime we are talking about the use of bribery, the corruption of public officials by crime cartels. The case of Guinea Bissau is the most vibrant explanation but again I

think that when we talk about the army chief of staff being killed and then the president being assassinated this has to do more with conflicts among the people of that country. Another example of corruption of public official would be Benin when a mafia group approached Matthew Kérékou during his first term to set up a toxic waste dump, he said "Sure, you can bring the toxic waste to Benin. In fact, why don't you put it next to Abomey (which was the city of most of his rivals)?" Then the European Union went up in arms, there was an investigation of the mafia group that had sent the waste there and the toxic waste was removed.

The presence of organized criminals trying to co-opt African leaders such occurred in Togo, and the organized violence that we find today in the Niger Delta are big issues. There is this idea that rebellions are organized crime. In the Niger Delta, there are heavily armed and highly violent militias. In terms of how much money they are gaining from oil bunkering, estimate are approximately $6.8 billion over a 6-year period to 2005; other estimates show that it is millions of dollars a day. They are taking hundreds of thousands of barrels a day and they are getting pennies on the cost of the barrel. This is turning a non-lootable resource into what Richard Snyder has called a lootable resource; it can only happen if there is collusion between the organizations that are taking the oil - because they have to off-load it – and the political leaders. For example, Ateke Tom, one of the leaders of the vigilante groups in the Niger Delta, inserted an illegal pipe into a pipeline that ran from the refinery to ships. Tom's pipe diverted gasoline directly to his compound that he used for his boat and for resell. This guy was absolutely brilliant; but it would have been impossible without the full compliance of a range of different people inside and outside the state.

The question then is: what do you do about this? How can anyone fight this? To quote Michael Watts, a professor at Berkeley, "This shows that the membrane that is supposed to separate criminal activities from official activities has broken down", it is not impermeable, and indeed it is permeable. At this point, we are not talking about international organized crime cartels coming out of Latin America or Europe, here we are talking about very sophisticated organizations in Africa, Africans running criminal operations with a great deal of efficiency.

To conclude, many African states are weak and fragile. In some of these countries there is no rule of law, there is little enforcement of existing law, police do not really know what the laws are, they just define them as they move along. Civil servants are poorly paid. Cartels are able to take advantage of gaps of knowledge. We should all be afraid for Cote d'Ivoire at the present time and think about what is going to happen in that country because the collapse of Liberia and Sierra Leone had a causal impact on Côte d'Ivoire.

The second major point is that the international crime cartels that are present in Africa are guests and their security is really contingent on their making payments to the Africans. They are not re-colonizing Africa; there is no re-colonialism occurring in Africa. Instead, these are people who are guests and it is the Africans themselves who are quite capable of criminal activities. Third, the notion of state capture is an illusion. Finally, corruption poses a costly policy issue that is resistant to reforms. In Zambian, the Zambian Revenue Authority is working to reduce corruption in the customs and excise agencies. In Chirundu, on the border with Zimbabwe, various customs officers claim officially "We don't love corruption, we fight corruption." However, they all know who is driving a new Mercedes, who has invested in his sister's business in Lusaka, who built a very nice house. How does that happen and what can you do about it? When confronted with these developments, they say, "There is nothing we can do. We make more money receiving bribes than we can make as customs officers and that is what we want to do." Their responses indicate that the problems of crime and corruption in Africa beg the Africans take responsibility for the circumstances in their countries.

MONEY LAUNDERING

MURRAY MITCHELL
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Thank you for this opportunity. I was initially asked to talk today about money laundering in Africa. That is a daunting task for which I am not qualified. So I have decided to focus on the anti-money laundering (AML) and counter-terror finance (CFT) work we have been doing in South Africa and hopefully the experience I refer to can be used as a point of departure in our discussion later.

The Financial Intelligence Centre (FIC) is South Africa's national centre tasked to gather and analyse broad-spectrum financial information related to: identifying the proceeds of crime; money laundering; financing of terrorism and to generate financial intelligence about the country's licit and illicit economies.

The FIC was established in 2003 through the promulgation of anti-money laundering legislation (the Financial Intelligence Centre Act No 38 of 2001), reports directly to the Minister of Finance and forms part of South Africa's financial regulatory system and law enforcement network. As part of its transition from an apartheid regime to democracy, the post-1994 South African government focused on stabilising the macro- and micro-economic framework and creating the conditions for global economic integration after decades of isolation. This was accompanied by new approaches to doing business and strengthening regulatory systems to cope with the demands of the international marketplace. So for example, government implemented its AML/CFT framework as part of this process, thus ensuring the integrity of financial institutions, being able to attract foreign direct investment and developing the capability to crack down on money laundering.

South Africa is a member of the Financial Action Task Force and its regional body, the Eastern and Southern Africa Anti-money Laundering Group (the ESAAMLG). The latter has 14 member states in the region, all of which are in varying stages of implementing their domestic anti-money laundering and combating of terror financing frameworks. The FATF also has similar regional bodies in West Africa (the GIABA, with 17 members). South Africa's FIC is also a member of the Egmont Group of financial intelligence units. At the moment only 7 other countries across Africa have financial intelligence units that are members of the organisation, a situation which undermines potential AML/ CFT work across the continent.

There are several common features which, in varying degrees, frame

and provide a context for AML/ CFT work across the continent. For example, it is commonly known that most borders between Sub-Saharan African states tend to be long and porous, frequently dividing communities of people and thus splitting into different states peoples who have common histories, cultures, languages and economies. Thus it is common for movement controls to be lax and relatively easy for the movement of people and goods, including contraband of various descriptions across borders. Most economies are primarily cash-based and the use of cash is the norm for trade, or goods are bartered for exchange. The money does not enter the formal financial system. And even if it does, financial institutions are relatively weak and there is a limit to the extent to which financial information is collected or made available for investigations. Many states on the continent are resource scare and relatively weak, so they have limited ability to implement comprehensive population registers and identity systems. Of course, they have limited resources to spend on law enforcement and regulatory capability.

South Africa has developed as the major economy on the continent with a relatively strong and sophisticated financial system, underpinned by advanced use of technology. But even it has a large cash-based component of its economy and a large informal sector. For more than a century it has attracted migrants, originally to work the countries mines and more recently to seek security when their own economies have been wracked by conflict or economic recession. With its increased accessibility and richness in natural resources, South Africa is at once a prime destination for investment and trade but also, for exploitation by organised crime. While the recent waves of immigration into the country have introduced new skills and cultural practices, they have also brought new forms of risk, one of which is that of new forms of organised crime able to exploit the vulnerabilities created by the colonial past (such as porous borders).

What is South Africa seeing of proceeds of crime and money laundering? In the past financial year the FIC received 29,411 suspicious transaction reports from the country's financial institutions. The FIC referred 331 reports for investigation by the country's law enforcement authorities, the combined value of which was estimated at Rand 66.1 billion (US$ 8.4 billion). During the year the FIC also froze 43 bank accounts valued at R128 million (US$ 7.8m) and in addition, contributed to 83 investigations conducted in foreign jurisdictions. Domestically, the FIC also conducted 199 on-site compliance audits of financial institutions. But all of this is probably only the tip of the ice-berg.

The various criminal activities that generated the proceeds being reported to the FIC often appear to be inter-related, indeed to be different facets of operations run by a single syndicate or string of networks. These crimes include car hijackings, cash-in-transit heists, ATM bombing and armed robberies.

Smuggling includes the importation of large quantities of counterfeit goods from clothing to electronic goods, illegally manufactured cigarettes, narcotics and anything of value, including SIM cards for mobile phones and stored value cards which then are sold in small shops on the street. They also import large quantities of counterfeit pharmaceuticals, including those used in the treatment of HIV. The syndicates export natural assets such as abalone, rhino horn, various other forms of fauna and flora, and illegally mined minerals, especially gold and diamonds. While there appears to be a downturn over the years the export of stolen and hi-jacked cars to neighbouring countries was a serious problem. The smuggling of people, including trafficking in humans, is another criminal activity which generates large proceeds and is known to occur frequently.

Fraud and white collar crime has increased in significance in recent years. This may range from the skimming and cloning of credit cards to various advanced fee frauds (419) scams, to pyramid and ponzi schemes. It also includes company hi-jacking and ID theft which then gets used to commit further crime. Corruption is both a consequence of, but also a prerequisite for much crime and especially those activities that generate proceeds. Intrinsic to the majority of the illegal activities is the evasion of tax payment.

How are the proceeds of crime moved into and out of the country? As already mentioned, the country has for over a century used migrant works to extract wealth from under the ground. The routes used by migrants to the mines had already been carved out as centuries-old trading routes. Today these arteries traverse the sub-continent and provide the infrastructure for the movement of smuggled goods. Cash helps to keep the routes well-oiled to facilitate the onward movement of the goods. Diaspora communities keep the routes and movement of goods concealed and impenetrable through clan systems, use of language and dialect and signs known only to them. Often the organisation is through a system of networks, each independent of the other, where nodal points touch but don't necessarily intersect. Cash is exchanged along the route and used mainly within that locale, very rarely leaving it to cross jurisdictions or to enter the financial system. This introduces huge challenges for monitoring the movement of proceeds and money laundering in the region, ironically even though sophisticated tools might be in place to do so.

The visible manifestations of the presence of criminal money are relatively obvious to all. One of those signs is the deliberate flaunting of wealth, the display of showy lifestyle changes and conspicuous spending on high-end property, such as game farms and luxury apartments and the acquisition of high value goods such as designer garments, jewellery and luxury motor vehicles. Other indicators include the unexplained movements of funds offshore and investment in new business ventures. Often too, the veneer of legal business practices has been used as a cover for fraudulent and illegal business practices.

What are examples of crimes that generate proceeds and involve organised criminal systems? It is not only the distribution of drugs that is controlled by organised criminal syndicates. The stripping of natural resource assets from the region is a focus area which has not concerned Western countries to the extent they might have. Often the use of and value of these natural products are supported by urban legends of their aphrodisiac and medicinal properties. Access to them is restricted to the wealthy and elite.

For example, 304 rhinos are known to have been poached in South Africa this year to date. Each rhino yields 1 or 2 horns, with an average weight for each horn of 7kgs. The value per kilogram of rhino horn is estimated at point of sale on the market in China or Vietnam to be about R400, 000 (US$57,143). That exceeds the price of gold in London. A single rhino horn can be valued at about R2,75 million (US$393,000). The cold-blooded slaughter of dwindling numbers of endangered black and white rhino for their horns has become a highly profitable business, involving game rangers, veterinarians, poachers, smugglers and high-end consumers from amongst the elite in the consuming countries. Before being exported the horns, which are essentially compressed hair of the rhino, is processed into disks, shaved, ground into powder form or packaged whole. For each chosen form of processing and packaging there is a demand for labour, cohorts and exchange of illegal monies.

Abalone, a sea mollusc, has suffered a similar fate as rhinos. Also believed to have aphrodisiac-type properties, 860 tons of abalone are believed to be strip form the coastal waters of South Africa by poachers every year. Abalone is believed to be valued at R1,500 per kilogramme (US$2,100). The expertise of local people is used to identify the source of the goods and then these citizens who are most often poor and vulnerable to exploitation due to unemployment or dependency on substances get promised of instant riches for extracting a haul from under the sea. The abalone is shucked from the shell and then processing takes various forms – drying, ground into powder, minced, canned or even boxed live. Usually the product is then physically transported into a neighbouring territory, from where it is exported as a "fish product" to countries such as China.

We are aware that the dirty proceeds from the sale of rhino horns and abalone are used by syndicates to stock up and offset costs on other illegally obtained goods, such as narcotics or counterfeit goods, in near barter-type transactions. This increases the opportunity for these transactions to remain undetected. Money is then flushed into offshore tax havens, luxury property developments and golf estates.

Rhino and abalone poaching are only two of many illegal activities undertaken by organised crime to strip the country of natural resources. Peter will talk about the extent of illegal mining activities in South Africa and the

serious social and economic impact these have. And of course these highly lucrative activities happen in all countries of the region, not only in ours. But they introduce a dangerous platform for the emergence and consolidation of organised crime in sectors that are not considered strategic and therefore while not wholly ignored are not given the focus or attention that is required by all players.

The FIC has seen that South Africa is producer, purchaser and transhipment point for cannabis, mandrax, heroin and cocaine. Syndicates involved in narcotics trafficking are rarely confined to only this type of 'businesses. More often than not, they are also involved in poaching, human trafficking, local and international gang syndicates and identity theft and other crimes. Profits from crime are cross-laundered and washed through the country's economic system through legitimate businesses. Not only drugs, but products from poaching such as rhino horn and abalone, are often moved through the country and the rest of the continent via mules, on land, sea and air.

Narcotics, we have found, are primarily destined for West Africa and even the Caribbean, from which it appears they are then moved on further to Europe. The proceeds of this activity are moved offshore, often to West Africa, or heads towards favoured tax havens – those which are closest to the country, or where there are strong historic, cultural and language ties. A high proportion of money remains in the country, where analysis indicates it is invested in prime coastal properties, game farms, luxury apartments and holiday homes. Often however, proceeds are spent in pursuit of flashy lifestyles.

Most illegal monies flowing into South Africa originate primarily from the Netherlands, Eastern Europe, the United Kingdom, the United States and the affluent parts of the African continent.

What of the future for anti-money laundering activities in South Africa and the rest of the region? South Africa recently has taken an aggressive and coordinated approach spanning all government agencies to deal with the problem. This approach needs collaboration and interaction with partners in adjacent countries and across the region. It means also the need to accelerate the development of AML/CFT systems in all countries and to enable information to be shared between them. It also seems appropriate to find new ways of including business in partnership arrangements to better understand how the proceeds of crime move through the system and to develop better methods to prevent this from occurring. This can also assist in the early detection of crime.

General skills and capability enhancement especially up-skilling in the analysis, investigation, financial and prosecutorial arena will go a long way toward detection, pursuit and watertight prosecution of criminals.

Finally, the international community should consider widening the scope of monitoring organised crime beyond that of narcotics only. While the

markets for drugs are largely based in North America and Western Europe and these need minimisation, the scope for organised crime to entrench itself across Africa utilising the opportunities presented by stripping of natural resources is huge. Once entrenched, this will present an extremely difficult problem to eradicate and one which will pose several additional risks to the region and further afield.

Part IV

RESPONSES

Chair
DAVID LUNA
Director of Anticrime Programs, Bureau of International Narcotics and Law Enforcement, US Department of State, USA

Responding to transnational organized crime must include the efforts of a diverse set of actors if the response is to meet with success. Nation-states are at the center of any response given the resources and capabilities at their disposal, but even here governments must harness a wide array of resources that goes beyond the criminal justice sector. Regional and international organizations are also important as they can both coordinate these national resources and connect countries to supplement and improve them as needed. Nongovernmental organizations (NGOs) supplement the response by working close with civil society to support positive governance and to provide services to victims. And the private sector can work in harmony with the public sector to make markets more resistant to transnational organized crime while denying criminals access to financial, logistical and other required services.

The conference agreed that states are central to the response to transnational organized crime in Africa. However, states also face significant limitations to the actions that they can expect to take. Externally, states must respect the sovereignty of other states and therefore navigate uncertain politics as well as criminal codes and procedures that don't often harmonize with their own. Internally, state responses rely on a suitable alignment of political will, public support, budgetary resources and skilled bureaucracies. Yet these challenges do not doom states to the sidelines, as the earlier discussion of the Nigerian EFCC demonstrated. Marie-Flore Kouame's presentation also demonstrated the abilities that states can rally when these obstacles are thwarted, noting that African countries seeking to improve their responses to intellectual property theft and online forms of organized crime had teamed with the U.S. Department of Justice to craft solutions that worked for each country. Last, David Luna's opening remarks highlighted the international partnerships that he and his colleagues in the Bureau for International Narcotics and Law Enforcement Affairs at the U.S. Department of State have succeeded in forging.

This teaming of multiple countries served as a strong discussion point throughout the meeting. Regional and international organizations are at their best when they work with nation-states and other actors to coordinate the response to transnational organized crime. Regional organizations such as the

African Union and the ECOWAS have a key role to play both in coordinating the efforts of their member states against regional or continent-wide threats. While international organizations such as the United Nations and the Organization for Economic Cooperation and Development can also help with this coordination, they can also draw on their broader memberships to provide technical assistance and to foster international cooperation.

Nongovernmental organizations work closely with civil society to bolster the drive to fight transnational organized crime. While necessary and effective in all states, they are particularly effective in countries where political will is lacking or collusive. The NGO community also serves as advocates for single issues that intersect with transnational organized crime. An excellent example of this advocacy was found in the presentation from the Small Arms Survey and their Geneva Declaration on Arms Control and Development, which seeks to reduce arms proliferation in the context of development assistance. Last, the NGO community can often bring forward social services such as public health facilities that help the victims of transnational organized crime.

The private sector was frequently invoked when the conference discussed the response to transnational organized crime in Africa. The investments of multinational corporations in Africa are an opportunity for bolstering the rule of law and insulating African markets from penetration from transnational criminal organizations. However, these same investments at times are opportunities for collusion and corruption that can involve criminal actors. Finally, corporations such as pharmaceutical companies can fall victim to transnational criminal organizations. For all of these reasons and more, this is an area ripe for public-private partnerships. By working with African states and other actors, African and foreign corporations can ensure corporate social responsibility while also minimizing the risk that transnational organized crime poses.

In the end, however, the numerous suggestions on how to respond to transnational organized crime in Africa centered on one theme: African solutions for African problems. Those who introduced this sentiment didn't seek to exclude non-African states, NGOs and corporations from the response. Rather, it was a call for African actors to identify the threat and craft a response from African actors that best met that threat. With this action plan, African governments could then better articulate their needs for international cooperation, coordination and partnership among non-African participants.

THE SPECIAL INVESTIGATING UNIT OF SOUTH AFRICA

PETER BISHOP
*Head of Operations, Special
Investigating Unit, South Africa*

The Special Investigating Unit is an anti-corruption unit that deals with corruption within government departments. It is mandated by the President of South Africa to investigate, it is accountable to the parliament and reports to the President on the outcomes of the investigation. I am head of operations for the SIU. I have approximately 500 staff nationally under my command. I also wear another cap: by special arrangements, I assist the national prosecuting authority as well as the Directorate for Priority Crimes Investigation of the South African Police Force to deal with transnational organized crime, in particular combating smuggling of precious metals from South Africa to the rest of the world.

To establish capacities you need a strong political will, you also need money, proper legislation, proper skills to be able to investigate, prosecute and recover the assets, you need international and regional cooperation and obviously you need good public-private partnerships. South Africa's numerous organized crime and corruption laws, agencies and strategies indicate a strong political will and commitment towards combating corruption and organized crime. Numerous international declarations, protocols and conventions exist in both South Africa and the continent. The question is: is all we are doing enough to try and combat crime on the continent? Strong structures exist to combat crime and corruption in South Africa which has been declared a prioritized crime by the Cabinet and the President. Currently, there are 12 priorities that have been identified by the President and his Cabinet dealing with service delivery and anti-corruption structures to effectively and efficiently deal with the problems we have in South Africa. Targets have been set in terms of these 12 priorities across government and performance contracts have been signed by the President and his cabinet ministers to make sure that by 2014 they deliver. If not, they face the chop.

Another initiative has been set in motion recently setting up capacities to deal with corruption effectively: an anti-corruption task force has been established dealing with top priority matters in South Africa. The target is to have a hundred serious targets prosecuted and assets recovered by 2014, where these individuals have amassed assets to the value of 700,000 US$ (approximately ZAR 5 million) and above.

Organized crime is an emerging global phenomenon. South Africa realizes that organized crime and corruption must be seen in the context of emerging global phenomena and that therefore without global cooperation we will lose the fight against crime. Organized crime poses significant challenges for South Africa and the rest of the continent: it impacts on state security, undermines government authority, negatively affects economic development, is responsible for social disintegration and creates unregulated parallel markets. We need international support. South Africa has therefore contributed fully to the transnational effort in the fight against international organized crime and corruption. This cannot be said for the rest of the continent and we have heard a lot about that in the last few days.

Organized crime affects South Africa, it affects the continent and it is linked to international organized crime. There are current gaps in existing responses. Not all countries share the same focus, priorities or understanding in respect to the actions that ultimately contribute to corruption and organized crime in South Africa and in Africa, if not the world. Various types of organized crime affect South Africa and Africa and in most cases they are interrelated. However, international indifference to the actions that are considered as morally reprehensible crimes in a particular country hinders the fight against local crime or smuggling of precious metals, rhino horn smuggling, or smuggling of endangered species just to mention a few. A lack of insight generated by the fact that these actions are not a crime or are not even considered morally reprehensible in a foreign country leads to a fight to view the particular crime in its proper context within the entire value chain of organized crime. Lack of cooperation between international law enforcement bodies is another big problem and not enough public-private partnerships exist to deal with the phenomena effectively. Everybody is working in silos, the best they can. It is time that we get together and do it as one. Insufficient international crime awareness of emerging threats is what confronts us currently.

I will illustrate, by using a case study, how we should go about developing state capacities. The case study relates to actual events, methodology and modus operandi used by organized crime syndicates in the smuggling of precious metals from South Africa to international markets, using legitimate routes, multinational corporations, banking and refiners situated abroad. I must mention that precious metal smuggling has recently been declared another priority for South Africa for obvious reasons. It must be noted that the methodology and modus operandi used in this crime focus area can be used in smuggling activity in any type of commodity to generate unlawful proceeds. It must be noted that possession and trade in precious metal is fairly unregulated in international markets, so, no matter what initiative we put in place in South Africa, if it is not recognised as a commodity being used by organised crime

syndicates to generate unlawful proceeds and prioritized like for example crimes involving drugs, we will never be able to deal with this proactively. Legitimate routes are being hijacked by organized criminals on international markets from producing countries such as South Africa, the Russian Federation (who is the second largest palladium producer after South Africa) to countries where the refiners are situated both in the West and in the East. You can see from the slideshow that Europe is a big target area where these refiners are situated. We protect the commodity with robust legislation in South Africa, yet abroad it is unregulated as mentioned, so any capacity we devise remains ineffective and prevents law enforcement from having the necessary impact. It always keeps us in a reactive mode.

Understanding the complex syndicate activity levels is very important. Each level of the pyramid from 1 to 5 is a high level illustration of the complex layers of the smuggling value chain; this pyramid can be applied to any type of organized crime with a view to understanding its complexity, develop strategies and tactical interventions. Levels 1 to 5 deals with the individual syndicate activity. Level 1 illustrates the lowest level where you acquire the product at source and it also deals with the socio-economic problems that affect that area. Level 2 deals with the gangs who actually manage the illegal miners and the people who are protecting this in terms of security at the mines. Level 3 depicts the buyers' market in South Africa who has licences and permits to deal with these products and so can meet the legislative obligations imposed upon them. Level 4 deals with the export routes, using front companies to facilitate the illicit exports after using all types of fraudulent means to circumvent customs scrutiny. Level 5 deals with the international markets that are put in place using intermediary companies to effectively launder and sell the product to the end users.

At level 5 we have engaged, with the extensive help of the United Nations Interregional Criminal Justice Research Institute (UNICRI) and United Nations Office for Drugs and Crime (UNODC), to look at regulating this market and thus effectively reducing the illicit buyer market. Looking at the pyramid, you may ask, where one would make the most impact in striking a proper blow in this value chain, I would say at level 3 and 5, which deal with the buyer markets that create the opportunity to smuggle. Each level of the pyramid will identify its own criminal interveners who operate at that particular level, the enablers (what creates the opportunity to smuggle), the challenges that we face on each level, the organizations that are involved, the persons or the law enforcement structures who need to investigate or assist law enforcement, the public-private partnerships that are required to effectively deal with each level in terms of the value chain as well as interventions to effectively deal with each level and in turn the entire value chain. The objective in identifying a criminal value chain as briefly illustrated with the pyramid overview, is to decide where

to focus and make the desired impact and collapse the value chain to have a good outcome.

We have also established a national coordinated strategic management team to ensure strategic and tactical inputs, outputs and outcomes are developed. The team ensures proper coordination and communication in South Africa, in the region and internationally and also reports to the government on this initiative and its outcomes because this is a priority crime for South Africa.

It is important and key that we know each other's problems. The following slide illustrates gold smuggling activities between Zimbabwe and South Africa and clearly highlights where interventions are necessary to make the necessary impact on organized criminal syndicates' activities in both countries. If law enforcement in South Africa understands how gold smuggling works in Zimbabwe, we will know how to deal with it in South Africa and in Zimbabwe. For example, the financiers (level 4) sell all their gold to South Africa (level 3). If we deal with our level 3 and level 5 in conjunction with Zimbabwe, we will effectively deal with Zimbabwe's problems as well. Previously, they did not know what we were doing. Now we are talking to each other and it is paying dividends. This type of rationale can be applied to all types of crime focus areas across the globe to effectively, strategically and tactically deal with transnational organized crime.

To illustrate this further, you have to know your targets before you even attempt to investigate them. I will briefly outline how this is done in the precious metal crime focus area. The un-wrought, un- refined product is obtained by illegal means by level 1 and 2 as reflected in the pyramid. They sell it to level 3, who is the syndicate boss or leader. Level 3 cannot possess this product in South Africa in an un-wrought, unrefined condition because only the mine, the refiner, the South African Mint and the banks are entitled in terms of our law to possess the un-wrought/unrefined product. So to deal with it without being detected they have to externalize it from South Africa to foreign markets where no questions are asked. They will have a front company established at level 4, who is able to export goods from South Africa, like, for example, a scrap metal dealer. The syndicate will approach this company or set up its own company and they will mask their presentation of the product to customs in terms of what product they are exporting and under-declare the value of it. Once that is done and customs have cleared this product, it is shipped from South Africa or flown to an international airport to an intermediary company set in England or in Europe. The intermediary company, by the time it arrives, has already an indication of what is coming through the boarder and what is in the container and they will clear it on the international market. This is done by taking a sample from the product and analyse it in a particular country for example in England or Europe and once they have established the true value, they will declare that

to customs so that their side of the activity is kept above board. The minute they know what the content is, depending on the market rate, they will then find the refiner who will pay the best price for the product and they will sell it or export it to the refiner. For example, a typical 20 ton container of illicit precious metals, presented as scrap metal, which was declared with a value of 50,000 South African rands, about USD 7 000, will be sold on the international market at about 500,000 pounds sterling.

It must be noted that before they sell the product to a refiner, they will obtain a pro-forma (provisional invoice) invoice from another company set up for such purpose in Switzerland. So when the refiner buys the goods, it looks like it is a Swiss company that has actually dealt with this container and not a company in, for example, the United Kingdom. Once the refiner has bought the container and has refined it, it will pay the money back to the intermediary company and the intermediary company will get an instruction from level 3 in South Africa where to transfer the money to as proceeds of the sale. The money is then transferred into an off-shore account as directed by the level 3 syndicate boss. What we have also found is that precious metals contain base metals – copper, nickel, cobalt, silver – which the value the syndicate is not interested in. The value of the base metals will go to the private account of the intermediary to defray its costs while the value of the precious metals will go to the account of the syndicate at level 3.

The money laundering scheme is another important element of this scheme. It illustrates how the syndicate gets it money, which was paid into the off-shore account, back to South Africa to continue its illicit activities and live a life of opulence. They use a money laundering modus operandi by combining the Hawala banking system, which is an informal banking system, with other legitimate banking systems of the world. The syndicate will contact the Hawala operator to find somebody who has money at home and not in the bank, which was possibly obtained from all types of illegal activities. Then they find one, two or three persons willing to sell the South African money for foreign currency. The contact then gives the Hawala man details of his off shore account internationally. The Hawala man will instruct the syndicate man, who is a level 3, to transfer the money from the off-shore bank account into which the proceeds were paid by the intermediary company, to his contact's bank account. Once the money has been transferred the contact will deliver the South African Rand to the Hawala operator who in turn hands the money to the syndicate boss. In this case one syndicate used over 300 international bank accounts in about 17 countries.

The syndicate is smuggling stolen precious metals between South Africa and Mozambique using a simple method. The syndicate bought an 8-ton truck. They packed the truck with vegetables for transport to Mozambique through the border between South Africa and Mozambique. However, the driver

got nervous when stopped and ran away and left the truck behind at the border post. When we examined the truck we found three squares marked out on the back of the vehicle. When we cut open the squares we found 8-tons of raw precious metal to the value of a million dollars. The product was going to Mozambique to be containerized as a scrap metal and transported back through South Africa to international ports.

As regards the proposed responses, I just want to outline what we have to consider in building capacities. There is a clear need to establish regional and global priorities, strategies and capacities across the entire chain to control criminal activities in Africa. We should foster a stronger regional and global response to identified challenges, establish multilateral relations regionally and globally and establish public-private partnerships to effectively deal with organized crime and corruption.

The days are gone when you, as a lone force, could think you knew everything about a particular crime focus area. You can no longer do that. In South Africa, we co-opt, experts onto project teams to effectively deal with a crime focus area as quick as we can. We need to promote international efforts in the field of money laundering, better border controls and legal international judicial cooperation. There is so much bureaucracy that it takes forever to process mutual legal assistance with another country to obtain information and evidence. We need to start breaking the bureaucracy down so that we can move at speed. Criminals have no time constraints, they move at lightning speed. They can externalize 8 tons overnight to foreign territories and have the money in the bank the next day. We need to establish an international coordinating body to manage these proposals. I think Africa is the most researched continent in the world. So there is no more need to talk but to rather act in a coordinated manner. We need to actually take control and manage things to allow the development of a strategy in building capacity to fight crime in an organised manner. Instead of having a number of different strategies, let's develop a value chain for Africa and then decide where best to strike as a collective. Again, think of the pyramid to refocus your mind on a plan of action. It is also critical that we should measure the success of such initiatives and report on it so that we can show the world that we are making a real difference in a coherent way. Currently we only hear about the wrongs, but never hear about what is being done.

The philosopher Edmund Burke wrote, "The only thing required for evil to triumph is for good men to do absolutely nothing". Ladies and gentlemen, the only thing for us to do now is to act and, hopefully, when we meet at the next conference, you will be able to report, not on the extent of the problem, but on what you have actually done to deal with it effectively. Thank you.

CEPOL: THE EUROPEAN POLICE COLLEGE

SALVATORE SIENA
Deputy Chair, External Relations Working Group, CEPOL European Police College

In its meeting in Tampere on 15 and 16 October 1999, the European Council agreed that a European Police College (CEPOL) should be established to train senior officers of police forces from EU Member States.

CEPOL was initially founded by Council Decision 200/820/JHA of 22 December 2000 as a body financed directly by the Member States of the European Union and functioned as a *network*, by bringing together the national training institutes in the Member States, whose tasks include the training of senior police officers. CEPOL was later established as an *Agency* of the European Union by Council Regulation No. 2005/681/JHA of 20 September 2005.

CEPOL's main function is to support the training of senior police officers of the Member States by optimising cooperation between the national training institutes. CEPOL therefore supports and develops a European approach to the main problems facing Member States in the fight against crime, crime prevention, and the maintenance of law and order and public security, in particular the cross-border dimension of those problems.

CEPOL still operates as a network with the training activities – courses, seminars, conferences - implemented in and by Member States. CEPOL, inter alia, organises about 100 training activities per year on key topics relevant to police forces in Europe; carries out specialised projects such as the CEPOL/Agis Exchange Programme and Euromed Police projects, within the MEDA Regional Programme; creates Common Curricula and e.learning modules relevant to all Member States; disseminates best practice and research findings.

In 2009, over 2000 senior police officers attended CEPOL activities and more than 830 experts, lecturers and trainers contributed to CEPOL activities.

A number of the courses and activities have become part of a continuing theme in the CEPOL annual training programme; others are short term, aimed at meeting emerging needs. Some topics are already indicated, either directly or indirectly, in the EU Decision establishing CEPOL, notably in those EU articles concerning CEPOL's objectives and tasks. Furthermore, the annual training programme takes into account suggestions and priorities coming from different sources such as the Member States, the European Commission, Europol, the Standing Committee on Operational Cooperation on Internal Security (COSI),

the COSPOL Project or the OCTA Report and attempts to merge them in a harmonized context.

The organs of CEPOL are the Governing Board and the Director, heading the CEPOL Secretariat. The Governing Board is made up of one delegation from each Member State and chaired by the representative of the Member State holding the Presidency of the Council of the European Union; the Director is appointed by the Governing Board from a list of at least three candidates presented by a selection committee, for a four-year period extendable once.

Four committees have been established by the Governing Board to support its work: the Annual Programme Committee (APC), Budget and Administration Committee (BAC), Training and Research Committee (TRC) and Strategy Committee (SC). The Committees are supported by a number of working groups, project groups and sub-groups.

In particular, an "External Relations Working Group" (ERWG) has been set up and assigned to the Strategy Committee. It is composed of eleven experts coming from various EU Member States and makes proposals and recommendations to the Strategy Committee and coordinates matters arising from external relations. The ERWG supports that CEPOL's external relations stay within CEPOL's remit, the Lisbon Treaty and the Stockholm Program and proposes adjustments to CEPOL's external relations policy according to political developments.

The ERWG, in particular, develops and updates a strategic approach on external relations; supports the Presidency and the Director on matters arising from external inquiries for cooperation or exchange; support the development and coordinate the implementation of cooperation agreements; develops cooperation with candidate and potential candidate countries.

Actually, the legal basis for CEPOL to deal with external relations can be found in article 8 of the Council Decision 2005/681/JHA establishing CEPOL according to which CEPOL may cooperate with relevant bodies of the European Union in the field of law enforcement and other related areas and with relevant training bodies in Europe. Furthermore, CEPOL may cooperate with national training institutes of non-member States of the European Union, in particular with those of the candidate countries, as well as with those of Iceland, Norway and Switzerland.

The Governing Board may authorise the Director of CEPOL to negotiate cooperation agreement Such cooperation agreements may be concluded only with the authorisation of the Governing Board. Cooperation agreements with bodies of non-member States of the European Union can only be concluded after the approval of the Council of the European Union has been obtained.

As a matter of fact, for the time being CEPOL has been cooperating with a large range of external partners, such as EU agencies and bodies; EU

networks; EU candidate countries; EU associated countries; EU potential candidates countries; ENP countries; other non-EU countries / bodies; private sector. More recently, among the others, two Cooperation Agreement with Croatia and Turkey have been finalised.

As already said, while planning its external relations strategies, CEPOL complies, inter alia, with the Stockholm Programme's previsions and statements. The Stockholm Programme was adopted by the Council of the European Union at the end of 2009 as a new "Multiannual programme for an area of Freedom, Security and Justice serving the citizen", for the period 2010 – 2014, according to the guidelines given by the European Council. Said document emphasizes the importance of the external dimension of the EU's policy in the area of freedom, security and justice by stressing that:

• The Union has a single external relations policy;
• The Union and the Member States must work in partnership with third countries;
• The Union and the Member States will cooperate closely with their neighbors;
• The Union will work with a proactive approach in its external relations;
• Priorities in external relations should inform and guide the prioritisation of the work of relevant EU agencies (Europol, Eurojust, Frontex, CEPOL, the Lisbon Drugs Observatory and the European Asylum Support Office);
• The adoption of the Lisbon Treaty offers new possibilities for the European Union to act more efficiently in external relations.

Having said that, the Stockholm Programme sets up some geographical priorities stating that EU action in external relations should focus on key partners, in particular:

• Candidate countries and countries with a European Union membership perspective;
• European neighbourhood countries, and other key partners;
• EEA/Schengen states;
• The United States of America, the Russian Federation and other strategic partners;
• Other countries or regions of priority.

As far as the African Continent is concerned, the Stockholm Programme, after reminding some important documents or initiatives already in place (such as 2007 EU-Africa Joint Strategy and Action Plan; EU-Africa Partnership on Mobility, Migration and Employment; EU Global Approach to

Migration), declares that the dialogue on migration should be deepened and intensified with African partners, focussing on countries along the irregular migration routes to Europe with a view to assisting those countries in their efforts to draw up migration policies and responding to illegal immigration at sea and on the borders.

Finally, the Stockholm Programme underlines that West Africa has recently developed into a major hub for drug trafficking from South America to Europe and will require enhanced attention and assistance to stem drug trafficking as well as other trans-national crime and terrorism (within the Sahel).

In the end, also considering the strategies and perspectives as shown in the Stockholm Programme, we can envisage a possible cooperation in the future between CEPOL and the relevant African Authorities in the field of training Police Forces. On this regard, as a good example of a constructive and fruitful cooperation at regional level which has been already realized, the Euromed Police I and II Projects, based on training activities, can be mentioned.

Just to give some pieces of information on the latter, the CEPOL Euromed Police II Project, involving, as beneficiary, the so-called MEDA countries (Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, the Palestinian Authority, Syria, Tunisia) was entirely financed by the EU Commission up to 5 million Euro and covered three years, from June 2007 to September 2010.

Eighteen EU Member States supported the implementation of the project: Belgium, Bulgaria, Cyprus, Finland, France, Germany, Greece, Hungary, Italy, Malta, the Netherlands, Poland, Portugal, Romania, Slovenia, Spain, Sweden and the United Kingdom.

As far as the training activities are concerned, the main topics were terrorism, drugs trafficking, weapons trafficking, CBRN substances trafficking, trafficking in human beings, financial and cyber crime. In total 500 senior officers (including experts) from MEDA countries participated in the project.

KOFI ANNAN INTERNATIONAL PEACEKEEPING TRAINING CENTER

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For West African states, one of the most serious challenges to state survival at the beginning of the twenty-first century is the influx of narcotics into the sub-region and their impact on public, private sector and community institutions. Thus, another threat to democracy is the money and the emerging culture of the quick and easy acquisition money. This kind of money has bought drug cartels friends in high places in West Africa, and penetration of the highest levels. In this respect narcotics are, by far the most attractive quick money spoiler. But drug money coexists with illicit money from other business. These flows have become so pervasive that the coastal fringes of this region, that through the years has shifted from slavery, to pepper transportation to the West is now popularly referred to as the 'coke coast[1]'.

Because of the sheer volumes of drugs being trafficked from West Africa to Europe and other parts of the world, the sub-region has been carved out by Narcobarons into two hubs, Guinea-Bissau servicing a northern hub and Ghana servicing the southern hub (Ibid 1). But this is not just about these two hubs; this is about the challenge that organised transnational groups are posing to West Africa's fragile states, particularly the threats that they pose, potentially to democratic governance processes and institutions. Almost all the maritime states in West Africa are experiencing an increase in actual seizures: Cape Verde[2],

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[1]   Costa, *The Observer* on Sunday March 09 2008
[2]   This country has had its fair share of attacks, in March 2007, 500 kilos of cocaine was seized from a container.

Ghana[3], Sierra Leone[4], Guinea Bissau[5], Liberia, Guinea, Nigeria and Senegal are all major ports for cocaine[6].

In this presentation, I discuss several issues detailing how this problem has come about, the endeavours by ECOWAS and the African Union to respond to this and finally how the KAIPTC as a research and training institution is contributing to responding to these challenges.

How has it come about?

There is a long history to the presence of transnational organized criminals in West Africa. However, the threats and challenges posed by such organised criminal activities in West Africa have become so pronounced, that experts in the field now characterize such groups as representing particular 'African criminal networks' (ACN). Their characteristics differentiate them from other criminal organizations and indicate a distinctive African character. Accordingly, '…[a]lthough the majority of the criminals engaged in these networks originated in the West African countries of Ghana and Nigeria, the networks have expanded their bases of operations beyond West Africa throughout the African continent. Hence, the term African Criminal Networks …'[7]. Probably, the most succinct characterization of ACNs have been provided by Stephen Ellis, who argues that,

> West Africans, …, have become significant players in the international trade in illicit drugs. Yet it is hardly possible to identify structured, hierarchical groups staffed by West Africans in this particular field of activity. Successful West African drug trade[rs] appear to be overwhelmingly individuals who recruit associates only where

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[3]   Ghana, as one of two hubs, is more of a stockpiling place for further distribution to other West African countries.

[4]   In July 2008, a Caracas registered aircraft flying a false Red Cross flag landed at Lungi Airport, Freetown with 700 kilograms of cocaine. However, a trial run of a Venezuelan consignment of 2.5 tons of cocaine failed as those loading the drugs unto a plane for a flight to Sierra Leone were arrested.

[5]   In July 2008 500 kilos of cocaine got 'missing' at Bissau airport as soldiers and policemen quarreled about who should take control of the drugs.

[6]   BBC News 2007

[7]   This was the definition provided to the conference organized by the Bangkok Country Office (BCO) and the Joint Interagency Task Force West (JIATF West). See, 'Notes from the African Criminal Networks Conference', p.1.

necessary and generally on an ad hoc basis. They may also be active in other fields of criminal activity, as well as in legitimate business. These characteristics, which are to some extent traditional among West African traders, can be turned to great advantage in modern, globalized markets, including illegal ones.

Apart from these characterisations, other critical factors appear to contribute to West Africa's positions as a critical intersection in the activities of transnational organised criminal groups[8]. These groups explore for weak entry points within state structures and then exploit such institutional fragilities to their economic and political benefit. West African states amply correspond to and exhibit such vulnerabilities and thus create and manipulate such opportunities for criminal gains. According to Pape,

> [West African] governments … are too weak, too corrupt or too consumed by their own problems to enforce laws or adequately monitor their coastlines and airports. Add to that are tens of millions of poor potential 'mules' and the picture becomes all too clear.

This explanatory framework of state weakness and failure for understanding the growth of criminal groups has gained acceptance. Shaw argues that, 'most importantly, the origins of criminal networks from West Africa directly parallel the decline and economic crisis of the …state in the 1980s…. Economic mismanagement, a failed structural adjustment programme, continuous political contestation and on-going and harsh periods of military rule marked the decline of the [West African] state[s][9].'

Although the above characterisations are fascinating in terms of the hierarchy and structure of these groups, there is an emerging trend in the analysis that is disturbing and does not provide the appropriate explanatory frameworks for understanding these groups. For example, it has been argued that 'ANCs are non-traditional, socially-cohesive organised crime groups that operate independently and lack a coherent corporate-type structure as seen in other significant illegal drug trafficking groups'[10]. If this is so, then what explains the ability of Ghanaian and other West African gangs to compete and conquer territories hitherto thought of as closed to African gangs?

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[8]   Allen, 1999
[9]   Shaw, 2001
[10]   'Notes from the African Criminal Networks Conference', May 16 –19, 2005, Bangkok, Thailand, p.1.

Although, it might seem as if the results and the drawn conclusions are concrete, there is a need for caution. ANC activities in West Africa are evolving at such an amazing rapidity and speed that the conclusions and deductions must be taken as tentative.

Sub-regional and Regional Responses to TOCs in Africa

Attempts to stem the tide of organised crime, especially drugs trafficking in Africa, have been at the national, sub-regional and regional levels. This section, however, examines some of the initiatives that have been undertaken by ECOWAS and the AU in order to address the challenges posed by organised crime.

First, the paper discusses the sub-regional responses by ECOWAS against organised crime in the region. The regional response in terms of ECOWAS engagement and efforts at responding to the drugs menace has a long history. Almost a decade ago, during the 21st Summit of Heads of State and Government in Abuja, Nigeria 30 – 31 October 1998, it issued a declaration entitled 'Community Flame Ceremony – the fight against drugs'. Several other decisions are:

• Resolution relating to Prevention and Control of Drug Abuse in West Africa (ECOWAS 1997);
• Recommendation C/98 on the establishment of a Regional Fund for Financing of Drug Control Activities in West Africa;
• Decision on the establishment of a Regional Fund for Financing Drug Control Activities (ECOWAS 1998); and
• Decision on establishing the Inter-Governmental Action Group against Money Laundering in West Africa (ECOWAS 1999).

Although all these institutional frameworks exist, with the exception of activities undertaken by ECOWAS's Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) that has been engaged in combating the activities of money laundering through its capacity-building and training programmes is improving the capacity of member states to respond to the threats of drugs and money laundering, '…operationally, not much has taken place[11].'

In spite of the little achievements, ECOWAS Commission continues to show concern with this upsurge, and in June 2007, at its 32nd Ordinary Session,

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[11]   ECOWAS 2008: 2

the Authority of Heads of State and Government expressed serious concern about the expansion in drug trafficking. As a result, ECOWAS commission was mandated to take urgent action. To get a fair view of the extent of the problem, GIABA was authorised to determine the scale of the problem as a means of using the recommendations arising from its activities to subsequently prepare for ECOWAS's strategy.

As a result of this background preparatory work, two initiatives were undertaken. First, a civil society organisations meeting on drugs in Abuja, Nigeria on 16 October 2008, and secondly the just ended ECOWAS collaborative regional ministerial conference on drug trafficking and control in October 2008 at Praia, Cape Verde with the assistance of UNOWA, UNODC and the EU titled 'Drug trafficking as a security threat in West Africa'.

An outcome draft document pledged 'to accord drug control the priority it deserves and the highest level of government … as well as at the ECOWAS Commission[12].' In the operative sections of the Political Declaration, the ECOWAS Commission was directed to establish:

- a strong coordination mechanism to forge close links with Member States government and civil institutions and organisations involved in drug control in order to achieve better coordination in the control of drug trafficking and abuse in the sub-region, and for that purpose;
- an ECOWAS Drug Control and Crime Prevention Division responsible for the overall coordination of regional initiatives undertaken in the area of drug abuse and crime prevention, treatment and rehabilitation as well as the collection and analysis of data on crime and drug phenomenon in the sub-region
- "establish an appropriate structure under the direct supervision of the President of the ECOWAS Commission, responsible for overall coordination and monitoring of regional initiatives undertaken in the area of illicit drug trafficking and drug abuse prevention";
- the Crime Prevention and Criminal Justice Centre (ECPCJS)[13] to serve as a focal point for mutual legal assistance both amongst ECOWAS members and non-members; and

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[12]   ECOWAS Commission 2009: 6

[13]   This Centre's establishment was recognised a s far back as 1999. In Article 46 of the 1999 Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security the threat of drug to the sub-region was recognised but characteristic of ECOWAS and its leaders nothing was done.

- the Department of Peace and Security under the Office of the Commissioner for Political Affairs, Peace and Security (PADS) was tasked with facilitating the formation of the Network of Drug Law Enforcement Agencies/Units within the framework of the West African Joint Operations for the coordination of efforts to combat illicit drug trafficking and related transnational organised crime in the ECOWAS sub-region[14].

The most important aspect of the new ECOWAS approach is the responsibility by each individual state in addressing the issue. In other words the regional solution will be the addition/result of the efforts made at national level
Beyond ECOWAS, there are also Africa-wide initiatives being undertaken by the African Union (AU) to minimize the potentially negative effects of transnational crime in Africa. The problem of transnational crime was placed on the agenda of the Organisation of Africa Unity (OAU), the predecessor of the AU in the mid-1990s. A first step in this direction was the OAU Plan of Action on Drug Control which was adopted at the 32nd OAU Heads of State and Government meeting in Yaoundé, Cameroon in 1996. This Plan of Action was informed by the realisation that

> 'Africa is targeted by drug traffickers who are taking advantage of the socio-economic and political difficulties besetting [the continent] and who are converting the continent into an extension of their worldwide network and are in the process developing markets for drug consumption wherever possible on the continent[15].'

The objectives of this Plan of Action, among others, were:

- Ensuring coherence of [AU's] action in drug control at national, regional and continental levels;
- Fostering cooperation among countries sharing the same problems, preferably in the same region;
- Setting up appropriate institutions to address illicit drug trafficking and illicit drug demand in a balanced, integrated and timely manner;
- Assessing the drug problem in its two aspects of supply and demand of illicit drugs as well as ensuring the capacity of countries to address the problem;

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[14]   Nigeria and Cape Verde insisted during the meeting in CV to assign the task of monitoring the implementation of the Plan of Action to the President-his office.
[15]   OAU Plan of Action on Drug Control 1996

- Integrating drug demand reduction programmes into the national health and social policy and providing, where not available, infrastructures for treatment of drug addicts and their social integration;
- Adopting the international drug conventions and legal instruments to deal with the problem;
- Evaluating periodically the programmes that are being implemented; and
- Mobilizing resources at national, regional, continental and international levels for carrying out the actions identified.

The above objectives, contained in the 1996 Plan of Action, could not be implemented due to *(a)* Political instability in some countries and regions; *(b)* Challenge of limited resources in the context of competing needs or demands regardless of the political will; *(c)* Absence of effective follow-up, monitoring and mobilization mechanisms; and (d) Inadequate institutional capacity at the OAU for drug control[16]. As a result, this Plan of Action was revised at the first AU Ministerial Conference on Drug Control, in Yamoussoukro, La Côte d'Ivoire, in 2002. The Revised Plan of Action placed emphasis on the following key areas:

- Institution building and policy development
- Information, research and networking
- Legal systems and implementation of laws
- Integrated drug demand reduction
- National law enforcement and control capacities;
- Regional law enforcement and control measures and international cooperation.

Since the revised Plan of Action was to operate from 2002 to 2007 it became necessary to review the Plan of Action again in 2007. Consequently, from 3 – 7 December 2007 the AU organised the 3rd Session of the AU Conference of Ministers for Drug and Crime Prevention (CMDCCP) in Addis Ababa, Ethiopia. This meeting was 'guided by a comprehensive approach in addressing drugs, organised crime, corruption money laundering, and terrorism issues'. The end result of the deliberations was the drafting of a Revised Action Plan on Drug Control and Crime Prevention for 2007-2012.

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[16]   AU Declaration on Control of Illicit Drug Trafficking and Abuse in Africa, 2002

The core objective of the current Plan of Action is:

To reverse the current trends of drug abuse, trafficking, organised crime, corruption, terrorism and related challenges to socio-economic development and human security and to achieve tangible improvement in the social and personal well-being of the people of Africa and the communities[17].

To be able to achieve the above objective, the Plan of Action contains seven key priority areas for action from 2007-2012. The seven key priority areas are worth citing here:

1.   Effective continental, regional and national policy formulation and coordination in the domains of drug control and crime prevention;
2.   Enhancing collaboration, shared responsibility and harmonised action to address drug trafficking, organised crime, corruption, terrorism, small arms related violence and crimes within the community;
3.   Building institutional capacity for the law enforcement, criminal justice and forensic service systems on drug control and crime prevention;
4.   Mainstreaming drug and crime concerns into development strategies;
5.   Regional and national capacity building and training to enhance prevention and care of substance abuse and related HIV and AIDS.
6.   Enhancing understanding of the dynamics of drugs and crime for policy making purposes; and
7.   Broad based responsibility for the promotion of sports and culture in the service of social development to combat drugs and crime.

The above areas will form the basis of action on drug control and crime prevention until 2012 when the plan is likely to be revised taking into consideration new development on TOC and related crimes. Furthermore, Ministers for Justice and Interior from ECOWAS Member States have adopted in Praia, Cape Verde, two main documents strategic to West Africa's renewed fight against illicit drugs and organised crime. The two documents, approved at the summit of ECOWAS Heads of State and Government in December 2008 in Abuja, are:

(a)   *The Political Declaration on the Prevention of Drug Abuse, Illicit Drug Trafficking and Organised Crime in West Africa;* and

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[17]   Revised AU Plan of Action on Drug Control and Crime Prevention 2007-2012

(b)　　The *Regional Action Plan to Address the Growing Problem of Illicit drug Trafficking, Organised Crime and Drug Abuse in West Africa.*

According to ECOWAS, the declaration provided the political commitment needed from member states as well as gives new impetus to the ECOWAS Commission in the fight against the scourge while the Action Plan provided the necessary framework for regional and national actions against drug trafficking, with the support and cooperation of development partners. The declaration mandates the ECOWAS Commission to coordinate the implementation of the Regional Action Plan, monitor and report to the summits of Heads of State in 2009 and 2010 respectively, on the progress made in the implementation of the declaration and the ECOWAS response action plan.

In addition, it directs the Commission to establish a strong co-ordination mechanism to forge close links with member states, civil institutions and organisations involved in drug control in order to achieve better co-ordination in the control of drug trafficking and abuse in the region. Towards this end, the Commission is to set up an ECOWAS Drug Control and Crime Prevention Mechanism. It will also prepare an ECOWAS convention against illicit drug trafficking and abuse, which should be finalised in 2009.

While expressing concern over the alarming surge in drug trafficking in the region and its consequences on the youth, they agreed that only a holistic and global approach can lead to the eradication of the drug menace in West Africa and called for a closer cooperation between countries of origin, of transit and of destination to effectively tackle the scourge.

ECOWAS is committed to designing 'an implementation strategy which is time bound, costed with clearly defined performance indicators to enable us to assess our level of progress'. The President of the ECOWAS Commission also pledged to "devise a validated monitoring and evaluation framework to enable us to track performance and deliver our strategies".

Recommendations and Way Forward

From the above discussions, it is apparent that transnational organised crime has soared in West Africa in recent times. The primary concern with the situation in the sub-region is its potential to destroy democratic structures and process. To this end, the EU can support sub-regional efforts aimed at addressing organised crime in West Africa through:

1.　　Investment in good governance and rule of law projects to fight the emerging culture of impunity;

2. Criminal justice must be one of the pillars to strengthen democracy and fight transnational organized criminals;

3. Information dissemination and awareness campaigns targeted at key democracy building institutions such political parties, parliaments, the judiciary and the executive;

4. Joint international efforts based on collaboration between ECOWAS and the EU to develop joint plan of action against organised crime. This will also provide the opportunity for the EU to share its experience with the sub-region.

5. Improved legislation in ECOWAS member countries and harmonisation of these legislations.

6. Needs assessment of the requirements for effective implementation of relevant regional, continental and international legal instruments;

7. proved and expanded oversight capacity and responsibility of Parliaments in West Africa in relation to the problem of organised crime. Establishing special parliamentary committees on drug control and organised crime in West Africa and Supporting political party development to ensure that they do not fall prey to drug barons. Such as support should include some form of political party finance in West Africa; and

8. prove legal framework for the freezing and seizure of criminal proceeds by supporting the setting up of financial intelligence units in all West African states.

COALITION FOR ORGAN FAILURE SOLUTIONS

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Thank you to the organizers for their kind invitation to participate in this stimulating conference. It is an honor and a pleasure to be here with such a diverse group of experts. By way of introduction, I am a medical anthropologist and I have conducted research analysing key actors' engagement in the processes of organ trafficking including medical professionals, laboratories, the state, religious leaders, patients and, most intimately, victims of the organ trade. This comes from the context of my work on broader matters of the body, bodily integrity, health and human rights, medicine, society and medical ethics in various countries of the Middle East, Africa and Asia including Egypt, Libya, Morocco, Somalia, Eritrea, the Gulf Countries, India, Nepal and Thailand.

In 1999, I commenced research to examine health concerns of Sunni and Somali asylum seekers in Egypt that were a result of war, flight and displacement and to examine their request for therapy amidst their request for refuge. In the years that I continued my study, officially from 1999 to 2003, and in the years since 2003 to the present via the research I conduct with the NGO that I now direct, I have interviewed hundreds of asylum seekers and consistently confronted a unanimously shared fear of organ theft- namely that if they entered an Egyptian medical institution, they would be more valued for their parts than treated as patients.

By 2004 I concluded in brief that, although some of the stories these asylum seekers circulate are exaggerated, poor and vulnerable individuals in Egypt serve as main suppliers of organs for transplantation. Estimates suggest that 80% to 90% of transplants in Egypt are via commercial, living donors or what we call "victims of organ trafficking" rather than from altruistic or related organ donors. Most of these commercial living donors are Egyptian but also include Sudanese and Somalis, with the distinct processes or legal and human rights considerations that are involved for these groups of non-nationals. In fact, it has become quite normalized in Egypt to have commercial living donors serving as organ suppliers. Of special concern to our current work is the trafficking of humans for organs from the Darfur region into Egypt, how it is organized between brokers, labs and hospitals across national borders within the region and that it crosscuts forms of human trafficking for labor and for organs.

My work to interview and provide outreach to victims of organ trafficking in Egypt and later elsewhere in the Middle East and Asia incited me to found the Coalition for Organ-Failure Solutions (COFS) in 2005 to build a civil society organization to situate the activists' efforts. This was also a response to be able to situate an activist agenda when there was no other avenue for advocating this cause. COFS is a non-profit health and human rights organization with a mission to end organ trafficking and enhance altruistic and deceased organ donation. Its mission is to foster accountability for establishing solutions to organ trafficking including prohibiting it by law, provide oversight on transplant practices, working towards national self-sufficiency in organ supplies, advance deceased and altruistic donations, provide outreach to victims of organ trafficking or organ theft and provide outreach and intervention to vulnerable groups of potential victims. To our knowledge, it is the only grassroots-based organization with a mission to combat organ trafficking.

The definition of organ trafficking established from experts' consultations with the WHO and the International Transplantation Society stems for the definition of human trafficking from the United Nations Protocol on trafficking in persons. I will highlight some of its key components: it involves the abuse of power or a position of vulnerability for the purpose of exploitation by the removal of organs for transplantation. It is noteworthy that the definition is restricted to the removal of organs "for the purposes of transplantation." As such, it does not include organs that are removed for witchcraft that is practiced in various parts of Africa. Thus, there is a need to coin a different term for that practice – perhaps "organ removal for witchcraft purposes" – since financial incentives and business operations would work quite distinctly in those circumstances.

In 2006, the World Health Organization estimated that 10% of kidney transplants – that is 5,000 to 6,000 each year – are commercial or considered a form of organ trafficking. This figure is based on a preliminary study that is also quite conservative as numbers from China alone (in 2006, approximately 11,000) surpassed this estimate. However, like most crimes, it is difficult to measure due to its clandestine nature.

This is a map of top host countries and client countries. The red countries are host countries that provide organs from victims of organ trafficking and the yellow are client countries that send transplant tourists to obtain these organs. There is a variety of ways and places in which this can happen and I can explain that further in the discussion if there is time.

COFS works primarily in the Middle East and Asia; projects and programmes related to Africa include Egypt and African asylum seekers in North Africa. The other important hot spots in the continent, at least right now, are Egypt and South Africa but there are other countries that have transplant practices that are of concern.

I would like to state two important points about this crime with special regard to Africa. Organ trafficking laws are better controlled in certain hot spots in recent years as a result of enhanced legal frameworks, however, organ trafficking is not likely to be abolished soon as the demand for organs will continue to increase in the years ahead. Further, the trafficking of tissues and cells is likely to expand as they are in demand for therapeutic purposes, they are largely unregulated and can travel much easier than organs. Additionally, advances in perfusion machines are enabling better organ preservation independent of the body. For now, however, organs typically travel best in living persons as their viability is quite limited to travel outside of the human body. Yet cells and tissues can be preserved to stay viable for months or years. Second, as the business is shrinking in present hot spots, it will shift elsewhere. Of special concern are the places where there is less scrutiny; Africa is of great concern because these crimes can be conducted with no or relatively little oversight, either within African countries where transplants are conducted or via participation of African brokers and victims in the business elsewhere.

I would like then to discuss how COFS responds to the crime of organ trafficking in Africa. We have prevention and outreach programmes in the regions I mentioned. COFS works with its partners to develop local, national and region-specific strategies across this range of prevention measures including: policy reform to prohibit organ trafficking in advance and promote altruistic and deceased organ donations to shift the burden from the living and especially the commercial living; target group and public awareness raising campaigns and calls to action; engaging decision makers and key stakeholders in the mission and grassroots advocacy and intervention with potential victims of organ trafficking. Outreach includes a set of programmes and, most importantly, clinical follow-up of the victims who are otherwise abandoned, health education about the loss of a kidney/ partial liver, peer support/counselling, income generation assistance and referrals to legal services. These outreach programmes were designed as a direct result of needs assessment from victims. Although these outreach programmes are for rehabilitation and may seem less related to fighting the crime, they are an important component of rebuilding public trust in transplantation where, in fact, commitments to fighting organ crimes have been made and shift transplants away from commercialism.

Some of the strengths of an NGO or of the civil society level approach are that we identify victims, conduct systematic studies and provide victims advocacy and support. We create transparency from below, we report findings – and I hope to have more time to report about the challenges of this activity. We stand as an important resource for information on criminal acts or human rights violations via close relations with victims. We advance alternative organ supply sources working to enhance altruistic and deceased donations by

enhancing legal frameworks and engaging civil society, not just from a top-down approach but from below.

The challenges are that it is difficult to obtain political will – as many of us have discussed – and support for our programmes and this raises the broader question: who will advocate and care for victims of organ trafficking? In brief, it is difficult to report findings without threatening the programme operations and to obtain a minimum impact when authorities are not clearly established or defined. In the case of Egypt, the Egyptian state does not – surprisingly – welcome human rights research and regularly imprisons human rights investigators. Although we can play a different role elsewhere where we work, COFS has not been in a political position nor do we have the expertise to directly conduct criminal investigations. Rather, we must operate with emphasis on our victim outreach programmes and programmes to advance alternative supply sources of organs, particularly with the recent passing of an Egyptian law earlier this year that for the first time permits deceased donation which is underdeveloped in the region. We have been able to report largely on the details of the extent and consequences of organ trafficking but our reports are limited in what they can include from our wealth of detailed knowledge of the parties involved in the crime if we wish to continue our programmes in the country. Further, apart from the state pressure we experience, there are no clear authorities – the state or otherwise – to report findings to, since there are no bodies to provide oversight over transplant practices. Rather, we have reported our findings to various interest groups and international organizations, mainly the WHO, the UNODC, the International Transplantation Society and human rights groups. There is a clear need for objective and thorough investigation from a third party of the criminal networks involved in carrying out these crimes.

A key concern with organ trafficking is that, especially several years ago, public thought considered it a matter of urban myth. In recent years, the reality of organ trafficking has become apparent, abusive practices have been better defined and legal frameworks have been enhanced in several key countries. Still, apart from the recent report on Kosovo and earlier reports on rings that have been led by Israeli brokers, there have not been in-depth, thorough and objective criminal investigations on many claims. We at COFS are currently working to engage credible human rights organizations with expertise in such investigations and we seek to do this in a complementary partnership to share our expertise in the organ trade with those with expertise in human rights criminal investigations.

CONCLUSION

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The continent of Africa is not immune to transnational organized crime. Criminal markets span the continent. Africa supplies some illicit markets, provides the demand for others and serves as a transit zone for an even wider diversity of criminal enterprises. Some of this is due to geography, which creates opportunities for criminal groups while simultaneously fostering challenges for national authorities. Corruption, lack of political will and the shortage of institutional capacities also contribute to the situation in Africa. Since responses to transnational organized crime remain largely protean in regions of Africa, efforts to coordinate a response are still developing. And while international attention to transnational organized crime gives African states an opportunity to define how multilateral responses can best support these efforts in the continent, the lack of knowledge of the threat they face presents even more obstacles.

This meeting gathered a group of experts that provided a detailed but high level description of transnational organized crime in Africa. The group determined that transnational organized crime in Africa operates in much the same way as it does on other continents. There is a diversity in both the types and perpetrators of illicit markets in African that is seen elsewhere around the globe. African crime groups operate some if not most of the illicit activities found in Africa, one also finds the involvement of public officials, corporations and criminal entrepreneurs. Africa is simultaneously a supply zone (e.g., illegal fishing), a transit zone (e.g, drug trafficking) and a destination (e.g., people smuggling) for criminal markets that span multiple continents. Thus the challenges that transnational organized crime pose to Africans are the same that Europeans, Asians and Americans face.

Yet the discussions during the meeting also noted that transnational organized crime in Africa is has a certain uniqueness about it as well. Africa's political, economic, social, geographical and ecological diversity is largely the locus of this differentiation. For example, the numerous rare animals and plants that serve as the basis of the African safari and ecotourism business is also the supply for illicit poachers and harvesters that supply markets in Asia, Europe and the Americas. The vast size of Africa also accounts for regional variation in transnational organized crime organizations and activities, as many of the

preceding papers noted. Finally, the diversity of governance, both in terms of structure and capabilities, found in Africa is not found in other regions of the globe.

From this comparative analysis, and from the many descriptive analyses found in the proceedings of this meeting, one theme that arose frequently was the urgency to fashion a response to transnational organized crime in Africa. Africa continues to enjoy a widespread positive development pattern. Consider some of these statistics that Andre Standing cited in his presentation on illicit poaching and natural resource crime:

- Mining investments during the early 2000s doubled or tripled in many African countries, such as the Democratic Republic of Congo.
- Massive increase in exploration spending for extractive industries, an increase of 250% from 2003 to 2007 alone.
- Oil exports increasing rapidly, expected to rise to some 3 trillion dollars (US) over the next 10 years.
- Profits from extractive industries increasing dramatically, although there is a great deal of volatility.
- Export of fishing from West Africa increased from 450,000 tons in the 1970s to 4.5 million tons in 2000.

Many African countries are in the process of upgrading or expanding their information, transportation and logistical infrastructures, allowing for more frequent and robust connections to global financial, travel and economic markets. While reports from the African Development Bank and others detail the significant challenges that lie ahead, these positive trends mean that African GDP per capita has continued to march in the right direction.

However with this development has arisen a parallel growth in opportunities for transnational organized crime. Numerous times, speakers at this conference cited how greater economic and infrastructure investments has helped to develop both licit and illicit markets. For example, the growth of South Africa's tourism and holiday sector had led to significant foreign direct investment gains, a portion of which was attempts by foreign actors to launder criminal proceeds. Infrastructure improvements also create new opportunities. Likewise, the penetration of high speed internet into Africa has led to an increase not only in financial frauds but also a significant uptick in online child exploitation cases originating in Africa.

Moreover, a number of attendees to the conference considered transnational organized crime a primary threat to undermine economic growth and development in Africa. Mr. Adegbite noted that the proliferation of advanced fee and other financial frauds online had done significant damage to

Nigeria's global reputation and had undercut efforts to encourage investment in the country's firms and institutions. Mr. Mitchell expressed similar concerns about South Africa associated with the use of its financial institutions for money laundering. Add on top of this numerous harms to citizens and their economic wellbeing as well as the costs of increased enforcement and regulation imposed on budgets not readily able to absorb them, and what results is a recipe for significant disruption for the gains that Africa has posted of late.

In conclusion, the participants in this conference tabled and discussed a number of thoughtful suggestions on how an African solution to transnational organized crime should take shape. One set of suggestions centered on the need to bolster cooperation among African countries and other institutions. Many of the presentations and discussions focused on the roles that various government agencies and other organizations would play in a response to transnational organized crime in Africa. Yet participants often cited lack of communication, even with direct neighbors, as hampering responses to transnational organized crime. Building regional and international cooperative relationships to share information, hand off investigations and assist with arrests were all cited as first order priorities for an African response to transnational organized crime.

A second set of recommendations focused on a topic related to cooperation—the need for coordination. On one level, coordination of efforts between African countries and then among other important actors (e.g., NGOs) is needed to ensure that efforts to enhance cooperation don't prove duplicative. On another level, the efforts of the international community to work with African actors needed coordination as well. With increasing attention to steer technical assistance and development aid to rule of law and internal stability programs comes a greater potential for inefficiencies to arise in capacity building. Speakers from international and regional organizations cited this as a natural role for their agencies, working with member states in African and around the globe to ensure that the greatest needs were attended to first. Finally, it is important not to overlook the need for coordination *within* countries, most importantly between government agencies. Given the need for a whole of government approach to fight transnational issues, this form of coordination is most important to avoid turf battles and to promote information sharing.

A last set of recommendations focused on how to prioritize enforcement efforts and how to target illicit actors and markets in Africa. Cooperation and coordination are less effective without an understanding of where to deploy limited resources. In order to advance this element of the response, many cited the need for more research and data collection to paint a more detailed and accurate picture of how transnational organized crime manifests itself in Africa. Others noted the need for African states to decide on which types of harm were most important to them. Last, a number of speakers cited the need for states to

work with one another to understand each other's priorities for counter-transnational crime. For example, Mr. Bishop cited the need for countries to consider how they prioritize anti-smuggling efforts at the various stages of a smuggling network, since a smuggling chain might be more vulnerable in a certain country but may simultaneously not appear as threatening to that country.

In the end, this conference succeeded in bringing forward a diverse set of experts to provide a rich description of transnational organized crime in Africa. Yet all also agreed that this was just the beginning of efforts to combat it. While more meetings such as this one would help to bring greater clarity to the situation in Africa and would allow for Africans to give voice to their response to it, much more needs to happen within Africa and between its governments. Recent efforts in regional organizations such as SADC, ECOWAS and the African Union show promise on this score. But almost all participants agreed that this meeting and others like it served as the start of the response. It is to others to carry that response forward.