Networking against Transnational Crime and Terrorism

Report on the GIBSA roundtable meeting held in Pretoria[1]

24 to 26 April 2013

1. Introduction

Organised crime was recently estimated to generate approximately $2.1 trillion in global proceeds of crime each year. This would be the equivalent of 3.6% of the world's gross domestic product. Various reports indicate that organised crime is a growing challenge.[2] The activities that contribute to this include illicit trafficking of various commodities, particularly drugs and precious mineral resources; trafficking of persons; fraud; corruption and other violent predatory crimes.

The proceeds of crime contribute to unregulated flows of resources, which are not taxed and therefore acutely impact weak and fragile states. Each state is expected to exercise authority and managerial control over its national territory. In recent years, there has been growing concern that the power and influence of the state is being eroded by the impact of globalisation as well as the emergence of major transnational economic and financial actors that are able to move their operations almost at will and cannot be held accountable to any single state. Criminal networks operating in a globalised environment appear to be able to expose and exploit the limitations imposed by

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[1] This report was compiled by Charles Goredema, ISS Senior Research Consultant, based on discussions at the Roundtable.

[2] Speech by the head of the United Nations Office on Drugs and Crime (UNODC), Yury Fedotov at a meeting of the Commission on Crime Prevention and Criminal Justice on 23 April 2012, http://www.unodc.org/unodc/en/speeches/remarks-at-21stccpcj.html. See Polity News at http://www.polity.org.za/article/crime-one-of-the-worlds-top-20-economies-un-2012-04-23, accessed 24 April 2012.

principles of state sovereignty. For instance, while individual countries may be constrained by issues of jurisdiction, criminal networks can establish ‘criminal sovereignties’ that cut across multiple territories and are based on their dominance of certain illicit commodities and/or services.

A number of serious challenges have become prominent in the 21st century. States are required to clarify, or even redefine, their essential role and how they relate to their citizens. In most of Africa, the entities shaped cumulatively by the Berlin conference of 1884–5, and the post-World War II global order have struggled with state formation, consolidation and development almost from inception. Following the end of the Cold War in 1989, inherent fragilities, illustrated by glaring democratisation deficits, weak institutions, undiversified economies, and problems with poverty and inequality, have emerged.

These weaknesses have been exploited by organised crime, emanating from within states as well as from outside. The resilience of organised crime has been bolstered by corruption, principally by lowering the risks that should normally attach to engaging in illicit activity. Criminal organisations and networks have become adept at exploiting weakly governed or ungoverned spaces, providing commodities or brokering the provision of basic services. In this manner, they have established and entrenched themselves while simultaneously accumulating social and political capital. These groups do not perceive it to be in their interest to displace state institutions but have rather benefited from the complicity of some public officials, using the state to facilitate movement of goods and to ensure the protection of the proceeds of crime.

As it has become more transnational and complex, organised crime has made greater inroads into the human and capital resources of nascent states. The flow of the proceeds of transnational organised crime, which is facilitated by corruption and various forms of money laundering, has significantly diminished capacity to combat serious complex crimes. Furthermore, certain crimes have also been linked to the financing of terrorism. The latter include armed robbery, trafficking in cigarettes and maritime piracy.

Against this background, the 2013 round of the GIBSA roundtable focused on transnational organised crime, and the sub-themes of money laundering and the financing of terrorist activities. The roundtable did not purport to formulate detailed policy recommendations, but rather to provide an opportunity for researchers from the GIBSA partners to exchange perspectives and experiences on contemporary manifestations of trans-national organised crime in various parts of the globe. It also tracked contemporary themes of universal relevance to the partnership, while discussing how they related to and fed money laundering and the financing of terrorist activities in specific settings. The way the challenges raised by transnational crime, money laundering and terrorist financing are being confronted, or might be confronted also came under consideration.

Numerous connections between criminality in various parts of the globe have grown over the years. Lessons can therefore be drawn from the analysis of organised crime structures existing in Africa, Asia, Latin America and Western Europe, specifically in South Africa, Brazil, India and Germany. Consensus emerged from the outset that transnational organised crime is an issue of international security, which requires attention by institutions beyond conventional law enforcement agencies.

2. Global and Regional Trends

Debates about the nature and magnitude of organised crime have endured at least since the advent of the twentieth century. Consensus on defining organised crime has been particularly elusive in respect of cross-border crime, even within the context of the sub-regions of Africa.

Southern Africa experiences illicit financial outflows whose scale is a matter of debate. Global Financial Integrity has estimated that, between 2001 and 2010, Mozambique lost \$85 million while South Africa lost as much as \$8.39 billion to illicit financial outflows. Losses from the other countries in Southern Africa reportedly fell somewhere between the two extremes. While not all these flows are attributable to organised crime, there is no doubt that criminality contributes significantly to them.

Research conducted over the years indicates strong links between organised crime in Africa and in Asia, Latin America and Western Europe. Two areas that come to mind are the trafficking of drugs and of precious natural resources. In the case of drugs, African countries – particularly coastal states – occupy intersections between major sources and markets. The Andean region in South America, which is a well-established source of cocaine, supplies to Western Europe through African countries. Heroin emanating from supply hubs in Asia and the Middle East also finds its way to Europe through some African countries. A number of African countries are well endowed with natural resources, many of which are in high demand around the world. Over the years, these resources have fed both legitimate and illegitimate trading markets. The resulting trade has not always benefited the economies of origin. Some of the territories from which natural resources are derived became entangled in long-running civil conflicts, becoming war economies in consequence. The presence of precious resources was a key factor driving conflicts, while at the same time the conflicts minimised the benefits to host countries. Angola, Liberia, Sierra Leone and the Democratic Republic of the Congo (DRC) provide a few examples of this 'resource curse'. The common thread linking them is the access to resource-producing zones and rent seeking by armed groups – with the intention of assuming governmental power.

According to Cano (2013) the concept of organised crime has not received much attention by researchers and academics in Brazil.[3] Focus has generally been on two manifestations of structured criminality, the 'traditional' and the 'entrepreneurial'. The former is attributable to groups of individuals, hierarchically organised and working secretly and using violence to commit illicit, profitable activities such as trafficking drugs. Entrepreneurial crime tends to use some of the strategies and methods used by lawful companies, but without being constrained by ethics, morality or law. Armed groups dealing in drugs, human trafficking and counterfeit commodities tend to capture most attention in Brazil. The *Comandos* that have been active in the three metropoles of Brasilia, Rio de Janeiro and Sao Paulo typify the latter category. As Garzon (2008) notes, the origins of the *Comandos* can be found in the Brazilian prisons of the 1970s.

> …at first the group organised around the prison population, focusing on things like the protection and control of prisoners inside the jails. The discourse was primarily about demanding better conditions. The real significance of the structure emerged,

[3] Cano, I *Violence and Organised Crime in Brazil: The case of 'militias' in Rio de Janeiro,* in Heinrich –Boll-Stiftung & Regine Schonenberg (eds) Transnational Organised Crime: Analysis off a Global Challenge to Democracy (2013) Heinrich Boll Foundation pp. 179-188

however, when members began to realise that the organisation they had achieved inside the prison could be used to organise criminal activities in the outside world. With the resources they were able to gather, primarily from the money of the prisoners themselves, the *Comandos* began to use the jail as a base to plan criminal activities like bank robberies and kidnappings. This dynamic, which occurred in the late 1970s, coincided with the massive arrival of cocaine to the city of Rio de Janeiro and the spread of internal consumption.'[4]

The *Comando Jovem Vermelho da Criminalidade*, which was the earliest to be established, was eventually eclipsed by the *Primeiro Comando da Capital* (PCC). The PCC is primarily involved in the distribution of drugs, but also conducts robberies of business premises, banks and container trucks. The nature of its activities, as well as the scale of poverty in some of the larger cities in Brazil, has enabled organized crime networks such as the PCC to integrate themselves into the social-economy. (Garzon 2008)

Brazil is regarded as a territory from which significant human trafficking occurs. (UNODC 2010) It is also a transit and destination territory. 241 trafficking routes were identified in 2010, of which 131 carried transnational traffic of victims destined for Europe (Spain, Portugal, United Kingdom, Finland, Switzerland, France, Germany), the United States and South America (Suriname, Bolivia, Venezuela, Paraguay, French Guiana).[5]

Organised crime has been encountered in India since the early 1960s. (Singh 2010) Its most problematic forms are transnational, with the key participants constantly evading apprehension by shifting residence among a number of jurisdictions. India's vulnerability to transnational organised crime has been attributed to the country's geopolitical proximity to both the so-called Golden Triangle[6] and the Golden Crescent[7] countries. In consequence, India has been a transit point to Western Europe for narcotic drugs for more than five decades. India also produces heroin, from opium cultivated in the states

[4] Garzon, J Mafia & Co.: The Criminal Networks in Mexico, Brazil and Colombia (2008) Woodrow Wilson Centre for Scholars pp. 64-65

[5] http://infosurhoy.com/cocoon/saii/xhtml/en_GB/features/saii/features/main/2013/05/08/feature-01

[6] The Golden Triangle is comprised of Thailand, Myanmar and Laos

[7] Pakistan, Iran and Afghanistan comprise the Golden Crescent countries.

of Uttar Pradesh, Rajasthan and Madhya Pradesh. Opium processing has been occurring in some chemical industries in India for a long time. These industries also produce mandrax. Narcotics sourced from or that transit through India account for a significant portion of the global output of hashish and heroin, some of which is routed through coastal east and southern African countries. Indian criminal networks also deal in cannabis and amphetamines.

Mumbai is generally perceived to be the epicentre of transnational crime – being the focal point of drug trafficking, gold smuggling, extortion, kidnapping and contract killing. Organised crime is also active in illegal gambling – notably in sport. Crime networks have long developed a strong interest in the film industry, having initially exploited the funding constraints which afflicted 'Bollywood' in its early days. The absence of support from conventional sources of finance opened a gap into which organised crime syndicates stepped. The extent to which such syndicates use their involvement in entertainment to launder proceeds of crime has yet to be determined, but there are strong indications that this is the case. (Singh 2009) Dawood Ibrahim is probably the most notorious leader of the active organised crime networks based in India. At the time of writing, he was reportedly resident in Dubai.

The growth and current state of crime networks in Germany, as in other parts of western Europe, is inextricably linked to the integration of Europe – in particular the opportunities that arose with the disappearance of restrictions to the movement of people, goods, capital and services within the Eurozone. (BKA 2010) This might explain the predominance of transnational networks reflected in police reports. (BKA 2012) German criminals team up with counterparts from Turkey, Italy, Poland, Russia and Vietnam – with drug trafficking being the main form of organized crime committed. 36.7% of crimes investigated in 2011 involved drug smuggling and trafficking. In addition to the heroin brought into Germany through such countries as Bulgaria and Austria, Nigerian dominated networks have been implicated in cocaine trafficking through the Netherlands. Organised crime networks are also responsible for continuing human trafficking and property crimes.

3. Organised Crime and Terrorism

As with drug trafficking, the lucrative trade in natural resources has attracted the attention of criminal networks. The armed groups that have, from time to time, gained control of resource producing areas have neither the inclination nor the capacity to exploit and trade in such resources, leading to deals with entrepreneurs who could. Among them were criminal networks. Accession of erstwhile rebel groups to government positions did not terminate relationships with criminal networks. Narco-states, in which drug trafficking networks heavily influence state structures, may have originated from linkages between such networks and militant groups.

Despite the ubiquity of crime networks dealing in similar fields of activity across different parts of the globe, the limited availability of information on the composition and reach of networks responsible for the most harmful forms of organised crime is a recurring concern. While it would appear that law enforcement and regulatory agencies in Western Europe and certain parts of Latin America are analysing such networks better, this does not seem to be the case elsewhere. Crime networks have come under sustained study in Colombia, Mexico, Guatemala, Brazil, Italy and Germany. Important information obtained from them does not seem to be circulating among counterpart institutions in other parts of the world. It has been suggested that this may be attributable to a lack of trust, but whatever the reason, the resulting knowledge gaps benefit transnational criminal networks.

Some crime networks appear to have relocated to Southern Africa from central Europe, and become active in high profile predatory crimes and homicides in South Africa. They include the infamous George Louca, alleged to be involved in the murder of adult entertainment entrepreneur Lolly Jackson, Radovan Krejcir, who has been implicated in the murder of German luxury motor vehicle entrepreneur Uwe Gamballa, and Dobrosab Gavric, a close associate of Cape Town gangster Cyril Beeka. The latter was murdered late in 2011. Some of the crime networks with a heavy central European influence are at the centre of protection rackets in Cape Town. At the same time, the inadequacy of trans-continental collaboration has been exposed by the challenges that arise in tracking commodity trafficking routes. One of the issues that arise is where the crude oil stolen from Nigerian pipelines or ships plundered by pirates in the Gulf of Guinea is refined and sold. How do the criminals responsible, who use pirates, manage to market the oil and secrete the proceeds? Similarly challenging are the routes followed in the trafficking of abalone (perlemoen) from Southern Africa to the Far East.

4. Organised Crime: The specific case of African maritime entry points

There are many challenges to developing a clear picture of trends, however, some tendencies can be identified. Firstly, criminal networks are particularly active in the economic hubs of coastal states – Guinea Bissau, South Africa and Kenya could be cited as examples. These hubs are more lucrative, and provide scope for diversification into different income streams, both licit and illicit. Coastal cities within these countries are significant entry points for illicit commodities, largely because of the role of the maritime industry in bulk commodity transportation. 80% of global trade is carried on the world's seas aboard vessels. The volume of African trade carried by sea is even higher – averaging 90% for most countries on the continent – according to former South African Minister of Defence Lindiwe Sisulu.

The infiltration of maritime trade by crime is therefore a matter of concern. In April 2011, the 20th session of the Commission on Crime Prevention and Criminal Justice held in Vienna passed a resolution on combating transnational organised crime committed at sea. The resolution noted that the Commission was:[8]

> Concerned about the continuing problem of transnational organized crime committed at sea, including illicit traffic in narcotic drugs and psychotropic substances, the smuggling of migrants and trafficking in persons, and threats to maritime safety and security, including piracy, armed robbery at sea, smuggling and terrorist acts against shipping, offshore installations and other maritime interests, and noting the deplorable loss of life and adverse impact on international trade, energy security and the global economy resulting from such activities, as noted by

[8] United Nations Economic and Social Council, ECN.15/2011/L.15/Rev.1, 1 to 5 April 2011

> the General Assembly in its resolution 64/71. Gravely concerned about, in particular, the growing threat posed by piracy and armed robbery at sea targeting vessels, including traditional fishing boats, off the coast of Somalia.

Secondly, coastal cities experience transnational organised crime because of their exposure to commercial shipping, tourism and the fishing industry. A study that preceded and informed the Commission's discussions found that the fishing industry was vulnerable to organised crime, such as the trafficking of persons, trafficking of marine living resources, trafficking of drugs and the smuggling of weapons.[9]

The Kenyan port of Mombasa handles an average of 19 million tonnes of cargo annually. It serves Kenya and several landlocked countries in the region including Uganda, Rwanda, Burundi, the DRC and to some extent South Sudan. Shipping is a key trade facilitator in West Africa,[10] just as it is a priority transportation mode in North and North-West Africa. Nigerian ports account for 65% of the trade handled by West and Central African ports.

Just as they can be used in maritime trade, ports can also be abused to import and export illicit commodities. Maritime shipping can be used in smuggling commodities out of Africa or into the continent through unregulated points in between maritime ports. The contraband introduced into, or removed from Africa by sea impacts on continental and global criminal markets. Apart from drugs, huge volumes of ivory and rhino horns, as well as unprocessed timber are also transported by sea. Crimes committed through Africa's ports and harbours contribute to money laundering within and from African countries. The size of this is yet to be determined.

On account of its capacity to carry large volumes, the shipping industry is at the centre of the cocaine trade that has linked South Africa and South America to Europe, directly or through West Africa in recent years.

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[9] De Coning E Transnational Organised Crime in the Fishing Industry: Focus on Trafficking in Persons, Smuggling of Migrants and Illicit Drug Trafficking. UNODC, 2011 http://www.unodc.org/documents/human trafficking/Issue_Paper__TOC_in_the_Fishing_Industry.pdf

[10] Omatseye T, in an interview with the Nigerian Voice newspaper published on 10 November 2010 http://www.thenigerianvoice.com/nvnews/37974/1/indigenous-shipping-companies-should-lift-govt-car.html Barrister Omatseye is the Director General of the Nigerian Maritime Administration and Safety Agency (NIMASA)

5. Money Laundering

The nature and scale of money laundering in many countries is quite difficult to understand because of various factors, not least of which is the dominance of unrecorded transactions. As with criminality facilitated by the maritime industry, money laundering draws attention to the double-edged intersection between business and crime. Money laundering is a term that describes both the process of disguising the source of assets, funds and/or benefits procured from unlawful activities as well as individual transactions committed for that purpose.

Money laundering comprises:

- Predicate (underlying) economic crime which yields proceeds
- The use of proceeds of the crime as if they were derived from lawful activities – for instance using proceeds of crime to support one's lifestyle, to enhance legitimate business enterprise or to gain influence
- (Possible) production of additional income from the proceeds of the initial crime, for as interest for example

Money laundering is universally understood to embrace more than just illicit dealings with cash. Anything to which a value can be assigned and traded can be laundered.

In the context of transnational organised crime, it is important to appreciate the multi-dimensional nature of money laundering. Some analysts have classified the dimensions of money laundering depending on the sources of the proceeds of crime being laundered. In truth, this is only one aspect. According to this approach, domestic money laundering involves the concealment of proceeds of internally committed crimes. It may also involve the importation of proceeds of crimes committed elsewhere. Money laundering can also be outflowing, in the sense that the money laundered is derived from domestic crimes, but removed from the country. Each of these forms of money laundering demands distinct analysis – in order to identify the factors that drive money laundering within it. The analysis should also assist in determining role players to be mobilised in combating the relevant criminality and associated money laundering.

All regions represented by GIBSA partners are affected by money laundering, as it is central to economic crime, and cannot be dissociated from any form of transnational organised crime. A multi-disciplinary approach is required in order to track and combat money laundering derived from organised crime. The dominance of cash transactions, and the resort to systems of value remittance that are parallel to conventional banking both introduce a variant to the conventional money laundering cycle, as they often interpose a step that further cloaks the illegality of the source of tainted funds. In a cash dominated context, a cash-generating asset can be introduced between the predicate crime and the financial institution into which proceeds of crime are deposited. This minimises the capacity of the financial institution to effectively implement the monitoring and interception obligations imposed on it by conventional anti-money laundering laws and regulations. Policymakers therefore have to be realistic in their expectation of what can be achieved through the financial sector. More attention should be paid to sectors beyond financial intermediaries, including the retail and real estate sectors. Proceeds of crime can also be transferred through the 'hawala' or 'hundi' mechanism, which was pioneered in India, but has become established in other places and is in use in many African countries.

The question is whether governments are prepared to cast the net of responsibility wider. The implications of widening the range of stakeholders in anti-money laundering regimes are well understood, but the political will to move in that direction is questionable.[11]

The role of multi-national enterprises in contemporary money laundering requires further study. Concerns about the extent and impact of tax evasion facilitated and concealed by international business transactions have escalated in the last few years, partly on account of the continuing global recession and its adverse impact on international aid flows. Calls for transparency in the reporting of tax relevant information by multi-national

[11] TA Desta and J Cockayne, *Study on Anti-Money Laundering and Countering the Financing of Terrorism in the IGAD Sub-region*, IGAD Security Sector Programme and the Centre for Global Counter-terrorism Cooperation, New York and Addis Ababa, May 2012.

enterprises have been repeatedly made at G8 summits, and echoed across the globe. Studies commissioned by the African Development Bank,[12] Global Financial Integrity[13] and the World Bank[14] have reported huge financial outflows from developing countries attributable to transfer pricing and profit (and loss) shifting. The amounts involved over the past three decades run into billions of dollars.[15] Despite this, the pursuit of proceeds of possibly illicit corporate practices is hampered by considerable lack of conceptual clarity, ambiguity and even indifference within elite corridors. There is no consensus, even among African countries, all of which may be regarded as victims, on what has to be done. This motivated the United Nations Economic Commission for Africa (UNECA) to establish and support a High Level Panel on Illicit Financial Flows from Africa, headed by former South African President Thabo Mbeki.

6. Money Laundering for Terrorism

The linkages that have been established between transnational organised crime and the funding of terrorist activities demonstrate the urgency of securing agreement on tackling money laundering. The Indian case study is particularly useful in this regard.

On 12 March 1993, India suffered a rude awakening from the dangers of transnational crime and its linkages to money laundering and terrorist financing when a series of 13 bomb explosions took place in the financial capital of India, Mumbai. The bombs led to the death of more than 250 people, and injured a further 700 people. Coordinated attacks at the Mumbai Stock Exchange, Air India Office, premises of other business

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[12] Illicit Financial Flows and the Problem of Net Resource Transfers from Africa: 1980 – 2009, African Development Bank and Global Financial Integrity, http://www.gfintegrity.org/storage/gfip/documents/reports/AfricaNetResources/gfi_afdb_iffs_and_the_problem_of_net_resource_transfers_from_africa_1980-2009-web.pdf

[13] As in note 5 above

[14] World Bank Report: Draining Development – Controlling Flows of Illicit Funds from Developing *Countries,* accessible at https://openknowledge.worldbank.org/bitstream/handle/10986/2242/668150PUB0EPI0067848B09780821388693.pdf?sequence=1

[15] Global Financial Integrity in a study of the volumes of illicit financial flows from Africa between 1970 and 2008, concluded that sub-Saharan African countries experienced the bulk of illicit financial outflows with the West and Central African region suffering the largest outflows. The five worst affected countries were: Nigeria ($89.5 billion) Egypt ($70.5 billion), Algeria ($25.7 billion), Morocco ($25 billion), and South Africa ($24.9 billion).

offices, hotels and busy market locations were believed to be in reprisal of the Babri mosque demolition in Ayodhya, Uttar Pradesh which occurred on 6 December 1992 and the subsequent riots in Mumbai.

These attacks were allegedly coordinated by Dawood Ibrahim, who was already heading the then Mumbai-based D-Company international organised crime syndicate. Dawood was assisted by his associate Tiger Memon. They were allegedly assisted financially and logistically in the execution of the Mumbai bombings by expatriate Indian smugglers Haji Ahmed, Haji Umar and Taufiq Jaliawala, and by India-based smugglers Aslam Bhatti and Dawood Jatt. Arms, ammunition and explosives were received through the sea route from Dubai.

India has since moved to tackle the persisting menace of transnational crime through a combination of means including investigative, punitive and preventive actions. The designation of operatives like Dawood Ibrahim compelled them to restrict their activities somewhat or diversify into other, more legitimate forms of economic activity such as the real estate business inside Pakistan and in the United Arab Emirates.[16]

The main intermediaries involved in brokering logistical support for terrorist activities encountered in India are within 'radicalised immigrant communities in Western Europe'.[17] Direct state sponsorship is now rare, but intermediation by state agencies to extend logistical support is a reality. The role of apparently innocuous non-governmental organisations (NGOs), ostensibly working in the field of human rights, also requires closer scrutiny. The funding channels of these NGOs and the identity of their contributing donors remains more dispersed and opaque, which makes timely detection of their identity, scale and purpose of operations much more difficult.

The risk of interception of criminal activities committed using maritime traffic is managed by corrupting the agencies mandated to monitor and control such traffic, which explains the relatively higher levels of corruption within customs departments. Corruption

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[16] Banerji R, *'Transnational crime, money laundering and financing of terrorism: The Indian experience'* an unpublished paper read at the Roundtable.
[17] Banerji, cited in note 10 above

presented one of the greatest threats from transnational organised crime, because of its use in the subversion of state institutions.

7. The Cybercrime Threat

Cybercrime may broadly be defined as any crime that is committed using a computer, network or hardware device that is connected to other computers through the Internet. The expansion of telecommunications is directly linked to the relatively recent proliferation of cybercrime. Cybercrime has become an acknowledged and growing threat across the globe from the turn of this century. It has gone through various phases since its early days, when it typically took the form of crime syndicates defrauding victims by using or abusing the corporate identities of banks or government departments, or false promises of lottery winnings whose retrieval required advance fee payments (so-called 419 scams).

From about 2004, cybercrime took the form of identity data theft, with the increasing use of malicious software (malware) such as key loggers, spyware, phishing and the use of 3G technologies. The data would subsequently be used to access and steal funds from bank accounts, or to create and transact with cloned credit cards. Since 2009, the world has encountered phenomenal growth in opportunities for cybercrime, coinciding with the virtual 'explosion' in the use of smartphones onto which various web applications can be downloaded.

Many developing countries have undergone digital revolutions, of which Kenya, South Africa and Nigeria are prominent examples. The same may be said about India – where developments have been on a far larger and more alarming scale.[18] Users of smartphones and computers in these countries have consequently become more exposed to cybercrime. Much of the current concern stems from the interception of or interference with data in order to commit fraud, forgery or extortion.

[18] Between 2011 and June 2013, at least 78 government websites in India are reported to have been hacked. See http://www.firstpost.com/tech/cyber-crime-in-india-continues-to-rise-78-sites-hacked-this-year-milind-deora-1019751.html

The risks have been amplified by the proliferation in the use of applications, colloquially referred to as 'apps', as 'apps' can be used as Trojan horses to conceal malicious software with which to steal identity data. Applications can also be used to track the location of a prospective victim in order to commit a crime – such as robbery, theft or kidnapping. Furthermore, any device capable of providing connection to e-mail can be used to lure the victim to give away personal information in response to a hyperlink. The proliferation in the availability and use of smart phones is not yet matched with general awareness of the risks raised, or capacity to detect crime networks abusing the new technology.

Cybercrime has been principally driven by two factors; firstly the relative anonymity that cyberspace offers to criminals and secondly, the potentially lucrative returns which cybercrime promises. 'Crimes committed using ICT and especially the Internet are more convenient, more inexpensive and therefore more profitable with a lower risk profile than crimes committed using more traditional means.' (Wolfpack, 2012)

The most serious cybercrimes tend to have a transnational dimension, in that the crime is planned and originated in one country but committed in a different one. Alternatively the banking account from which funds are stolen may be held in a different country to that from which the message, which activated the theft, originated. In consequence, the crime may simultaneously challenge the jurisdiction of several countries.

The approach which appears to be gaining universal acceptance is to extend jurisdiction to any country where the offence was committed, or to any country in which part of the offence was committed, or in which the offence had an impact. (South Africa's Electronic Communications and Transactions Act of 2002)

8. Trajectory of Transnational Crime: What the Future Promises

Several studies show that the rate of urbanisation will continue to escalate. UN Habitat's 2003 report, *The Challenge of Slums*,[19] was probably the first to focus on the massive

[19] United Nations Habitat, "Challenge of slums: Global report on human settlement" (2003). http://www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=1156 (accessed 1 December 2010).

urban population growth in the global South and its possible consequences. The report observed that:

> … unlike industrial urbanization of the developed world, where most new migrants can still be absorbed into the formal workforce, the urbanization of the developing world has outstripped the capacity of the formal economy to provide employment.

The destruction of traditional livelihoods – by force of law, arms, conquest and environmental degradation – has inspired a mass migration of the rural poor to settle in urban slums and shantytowns on the margins of society, without providing corresponding economic opportunity.[20] In Africa more than 50% of the population is expected to live in cities and towns before 2025.[21] Mass rural-urban migration has tended to reproduce and worsen poverty and informality on a large scale.[22] By 2025, Kinshasa and Lagos will be the largest cities on the continent with 20 million and 16 million inhabitants respectively, far surpassing Cairo.[23] Against this backdrop, the vast majority of this population growth will result in a proliferation of residential ghettos, in which informal and sometimes criminal economies will continue to serve as the primary survival strategies for much of the population. This will, in turn, produce an unprecedented expansion of informal, but influential, forms of government from below.

In the ensuing environment, the demand for cheap but illicit goods is likely to significantly expand, creating an incentive for criminal networks to satisfy the demand. The exponential growth in the markets for counterfeit commodities – from clothing, to pharmaceuticals, to spare parts for motor vehicles in megacities such as Johannesburg, Nairobi and Dar es Salaam is a fair indicator. Each inspires secondary illicit activities, ranging from petty theft, armed robbery and smuggling. Collectively they are bound to

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[20] L Podlashuc, (2011) "The South African Homeless Peoples Federation." *Working Paper*, University of the Western Cape.

[21] The rate at which Africa is urbanising, particularly in comparison to the rest of the world is reflected in statistics cited by Urban Landmark recently: while London's population in 2015 will increase by 6 people per hour and Berlin's not at all, 2015 will see Lagos grow by 58 people per hour, Kinshasa by 39 and Nairobi by 15.

[22] Parnell S, (2007) "Urban governance in the South: the politics of rights and development," in K Cox, M Louw, and J Robinson (eds) *A Handbook of Political Geography*, London: Sage; and E Pieterse, (2008) *City Futures: Confronting the Crisis of Urban Development*, London & New York: Zed Books.

[23] United Nations Habitat, "Challenge of slums: Global report on human settlement" (2003). http://www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=1156 (accessed 1 December 2010).

oil the wheels of transnational organised crime, as most of the commodities in demand have to be procured from abroad.

Given the progressive weakening of national sovereignty by globalisation, multi-national enterprises and the contraction of the state referred to above, we should be anxious about the impact on the management of transnational organised crime. Policymakers and international partners should therefore be wary of the criminal economies that could in turn create and sustain systems of criminal governance, initially in the larger metropolitan areas, but eventually beyond cities. Without this 'tactical' awareness, they are unlikely to develop comprehensive, effective and sustainable strategies to reduce the impact of these regimes. They are even less likely to develop the capacity to pre-empt the relocation of such regimes to other countries or cities that may be at risk. Both the World Bank and the IMF share the concern that increased urbanisation will be a key factor leading to enhanced criminality even in the short term.

No single state can contain transnational organised crime in isolation, because of the ever-present risk of displacement to a more favourable environment. It is arguable that there is no area of law enforcement in which international alignment of strategies and collaboration is more important.

9. Recommendations

Any recommendations targeting transnational organised crime have to acknowledge the enduring challenge of defining it in a way that embraces all its essential attributes. The concept of organised crime itself has eluded universal definition a decade after the UN Convention against Transnational Organised Crime (Palermo Convention) came into effect. The initial hurdle is therefore target identification. The enduring source of confusion appears to be the lack of unanimity on whether the determining factors are the number and conduct of the actors involved or the character and impact of their activity. The Palermo Convention's description of an organised criminal group embraced all four characteristics, and is therefore of limited utility. It is suggested that the decisive factors should be the conduct of the actors involved as well as the impact of the activity. Numbers should not be relevant, as, with the use of technology and/or innocent assistants, a lone actor can plan and execute an event that is detrimental to an entire region.

Contemporary forms of organised crime demand coordinated responses. The more effective responses have tended to be rooted in an integrated approach, in which various agencies act in concert and pool knowledge and resources. Examples in Africa can be found in the use of multi-sectoral task forces, such as the task force which investigated former President Chiluba in 2007-8 for grand corruption and money laundering in Zambia. A multi-sectoral approach is also followed in India, but essentially in anti-terrorism cases. Typically, this brings regulatory and law enforcement agencies into a co-ordinated team, with each agency contributing resources and data, and being able to access information in the custody of partner agencies. This approach enables investigations to be triggered by a transaction picked up at any one of a number of points. An investigation can, for instance, be triggered by a suspicious transaction report from a financial institution.

Germany's BKA presents a model for an approach based on the integration of various repositories of information on crime. The BKA is the Federal criminal police department. Within it is a division that focuses on 'violent and serious crime, drug crime, economic and financial crime, property crime, counterfeiting/forgery, and high-tech/computer crime.'[24] The same division also houses the financial intelligence unit. The BKA is vested with prosecuting powers for crimes that it investigates. Most of them could be classified as manifestations of organised crime. South Africa experimented with a similar approach, in the form of the Directorate for Special Operations (DSO) between 2001 and 2009. The DSO, which was better known as the 'Scorpions', had powers of investigation and prosecution, but was not a financial intelligence-gathering unit. It scored notable successes against networks involved in drug trafficking, fraud, racketeering and grand corruption. Among many other cases, the Scorpions were credited with the successful prosecution of former Police Commissioner Jackie Selebi for corrupt collusion with drug trafficking syndicates. Acting jointly with the Asset

[24] Ref the website of the BKA at http://www.bka.de/nn_195536/EN/TheBKA/OrganisationChart/SO/so__node.html?__nnn=true. The spent a week visiting the BKA's Berlin Office during 2010, and received briefings on the philosophy underlying its work and the functions of the various units.

Forfeiture Unit, a division with the National Prosecuting Authority, the Scorpions seized proceeds of crime worth billions of rand – notably from drug trafficker Ronny Johnny Smith, who had multiple nationalities but used to spend most of his time in Swaziland. The Scorpions were replaced by the Directorate of Priority Crimes Investigation (DPCI), which is part of the police and has no prosecution powers.

Various arguments have been made in support of intelligence-led policing. In this context, this refers to the collaboration of multiple agencies, to allow for the gathering and analysis of information to expose the multiple actors involved, and occasionally, the linkage between crime networks and politics. If networks are responsible for the most complex forms of organised crime, it follows that investigative networks are required if they are to be effectively tracked. There are few examples of intelligence-led policing.

There is agreement that emotive responses to crime, typified by references to anti-crime initiatives as a 'war', are not useful. They tend to encourage exaggerated acts by policymakers and law enforcement practitioners alike, and may even encourage suppression of the reality. As with any war, facts are usually the chief victim.

Some of the crimes that have proved to be most intractable are market determined, with drug trafficking being central. It is a challenge common to all countries in the GIBSA partnership. There is a discernible exasperation that existing initiatives in the source and transit countries within drug trafficking routes are inadequate. There appears to be less introspection in major destination countries – where demand continues to impact other parts of the value chain. The profitability of drugs is intricately connected to demand. Hence the call for demand suppression to receive greater attention, and arguments for limited decriminalisation to be revisited, going forward. The detrimental effect of consumption of criminalised drugs should be better highlighted. The implementation of Plan Colombia to suppress cocaine trafficking appears to have achieved impressive results without excessive rhetoric.

Both the East African Police Chiefs Cooperation Organisation (EAPCCO) and Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) have been engaged in crafting, reviewing and implementing multilateral responses to transnational organised crime for nearly two decades. Their combined efforts appear to be still inadequate and need significant improvement. This could be immediately done in the sharing of crime intelligence among member agencies, as well as between them and law enforcement agencies in the developed world. It is evident that some non-African agencies distrust law enforcement agencies in developing countries, and are therefore reluctant to share good quality intelligence with them. Invariably, this hampers efforts to track and interrupt crime networks.

The limitations imposed by principles of sovereignty, such as the insistence on formal bilateral treaties on mutual legal assistance, extradition and sharing of evidence are overdue for review. States will have to make more compromises on issues of national sovereignty in order to combat globalised crime. Reluctance and sluggishness on this has played into the hands of criminal networks, enabling them to expand criminal sovereignties that span numerous territorial frontiers. An example of this is the manner in which crime networks took advantage of trade corridors that criss-cross Mozambique to facilitate the expansion of smuggling activities, to a point where some are better known for the contraband rather than for the legitimate commodities passing through them. As projects for upgrading infrastructure to promote regional trade take shape throughout Africa, it is critical to understand the crime trade seeking to exploit the improved routes.

Some effective legislative models have emerged. In India, the Foreign Exchange Management Act (1999), is the main legislation covering foreign exchange transactions. It is used in conjunct with the Prevention of Money Laundering Act (2002). Taken together, they are used to attach proceeds of crime and confiscate tainted property. There are adjudicating authorities, tribunals, appellate and special courts appointed by the Central Government to administer cases and trials in regard to offences under these acts. The legislation is enforced by the Directorate General of Economic Enforcement within the central Ministry of Finance, but working closely with the Central Intelligence Bureau. The Prevention of Organised Crime Act (POCA) in South Africa introduced innovative approaches, notably the crimes of racketeering, and membership of a criminal gang. Its asset tracking and seizure provisions have made a significant impact in depriving crime networks of the proceeds of their activities, and enhanced South Africa's capacity for cross-border collaboration against organised crime. Since the advent of POCA, in 1998, almost a billion rands worth of criminal assets have been forfeited to the state. POCA laid the foundation for the laws to combat money laundering and the funding of terrorist activities.

More attention needs to be paid to enhancing the quality of crime intelligence, especially where it concerns transnational crime networks. Experiences from the region, and studies conducted outside it show that organised crime networks exist as business entities, and that they sustain themselves through linkages with state functionaries and some legitimate businesses.

At the end of the day however, the attraction and clout of networked crime lies in the great financial rewards that it holds offers. It follows that its dramatic reduction depends on the diminution of its financial power. As pointed out in the discussion on money laundering interdiction, the expertise required does not repose in a single sector. There must also be a system of collaboration by which the requisite expertise is secured from other sectors and institutions. As the nature of the threat emanating from networked crime is transnational, only responses that have a trans-national footprint can succeed.[25]

Some crime networks have even acquired global linkages. Strategies to combat organised crime should be better informed about the extent of global criminal markets and the composition of crime networks active in such broad markets. For multinational initiatives against organised crime to be effective, it is necessary to develop comprehensive 'maps' of the crime markets and crime networks. The most challenging networks to crack are those involved in illicit exploitation of natural resources. They can best be tackled through strategies and measures that are co-ordinated globally, which are not constrained by the technical restrictions imposed by territorial borders. Countries should make better use of regional structures such as SARPCCO and EUROPOL, partly to minimise risks to regional security arising from selective prioritisation of types of criminality by different countries.

[25] Combating Organised Crime A Case Study of Mumbai City *Sumita Sarkar and Arvind Tiwari* (Unpublished paper accessible at http://www.satp.org/satporgtp/publication/faultlines/volume12/Article5.htm

Progress has been achieved in harmonising approaches to asset tracking and seizure among some countries in Southern Africa, with the advent of the Asset Recovery Inter-Agency Network of Southern Africa (ARINSA). Implemented under the auspices of the UNODC, ARINSA is developing an informal way of effecting mutual legal assistance within the sub-region. At the end of the day, organised crime networks occurring in each country should not be perceived as distinct transgressions, but rather as part of a criminal market. What should be investigated is the extent of the market. The various actors comprising it, regardless of their nationality, should be targeted by any of the countries affected by the market of which they form part. As with terrorism, transnational organised crime is seamless.

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