



Squeezing a Balloon?

Challenging the nexus between organised crime and corruption

Quentin Reed

U4 ISSUE 2009:7

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Indexing terms

Political corruption, organised crime, UNCAC, illicit financial flows

Project number

29402

Project title

U4 Anti-Corruption Resource Centre

Content

Abstract	8
1. Introduction	9
2. Organised crime and its nexus with corruption.....	9
2.1. Contested concepts	9
2.2. Types of activities.....	10
3. The nexus: Organised crime and the state.....	12
4. Examples.....	14
4.1. Afghanistan: Opium, war and “post-conflict” consolidation?.....	15
4.2. Latin America: The growth of lawless border regions	17
4.3. West Africa: Failing states?.....	19
4.4. Other examples: A picture of variation.....	22
5. Tackling the organised crime-corruption nexus: Conventional wisdom.....	23
5.1. International standards.....	23
5.2. The record in practice	25
5.2.1. <i>Too narrow an understanding of corruption</i>	25
5.2.2. <i>The bias towards criminal law/enforcement</i>	26
6. Towards a different approach.....	27
6.1. Research, analysis and proper policy rules	28
6.1.1. <i>Breaking down the problems</i>	29
6.1.2. <i>Identifying appropriate measures/policies</i>	29
6.1.3. <i>Undesirable side-effects</i>	32
6.2. A wider range of policies: Thinking out of the box.....	33
7. Conclusions: Lessons for policymakers and bilateral donors	34
8. References	35

Abstract

Corruption and organised crime are of great concern to the international community: while the first is regarded as one of the greatest barriers to development, the second is seen as a key threat to international security and stability. In this context, corruption is best understood as the way in which organised crime infiltrates the state. Corruption is one of the primary enabling activities of organised crime, it makes possible and/or facilitate the conduct of this type of criminal activities.

This U4 Issue argues that understanding the connections between both phenomena requires a deeper analysis of the relationships between organised criminals and public officials at different levels of the state. First, international standards and conventional wisdom tend to embrace a limited range of the possible policies that may be employed to tackle organised crime and the corruption, and are heavily oriented towards criminal law and enforcement. Second, policies to tackle both problems are usually developed without applying sound principles of policy-making. The author argues for the development of policies based on proper analysis of the specific context, breaking down the problem into clear components, identifying their causes, and selecting specific and appropriate measures to address each component or causal factor. In particular, the author suggests there is a pressing need to correct the current bias towards criminal law enforcement solutions.

1. Introduction

This U4 Issue examines the links between corruption and organised crime, using both analytical frameworks and real-world examples from Afghanistan, Latin America, West Africa, and elsewhere. Both phenomena are of great concern to the international community: organised crime is seen as a key threat to international security and stability, while corruption is regarded as one of the greatest barriers to development. Estimates of the financial impact of organised crime vary enormously, with annual estimates in the region of USD 500-1000bn (Wright 2006, 51). This financial impact may pale into insignificance, however, compared to the destructive effect that organised crime and the corruption that invariably accompanies it may have on nation states themselves.

Corruption enables organised crime, and corruption in this context is best understood as the way in which organised crime infiltrates the state. However, this paper underlines the wide variation between countries in the nature of the organised crime-corruption nexus, from occasional bribery of public officials to situations where a fundamentally corrupt state itself controls organised crime. The paper argues that understanding the connections between organised crime and corruption requires a deeper analysis of the complex and varying relationships between organised criminals and public officials at different levels of the state. Following from this, the two other key arguments of this paper are the following. First, international standards and conventional wisdom tend to embrace only a limited range of the possible policies that may be employed to tackle organised crime and corruption, and are heavily oriented towards criminal law and its enforcement. Second, policies to tackle organised crime and corruption – whether based on such standards or not – are usually developed without applying sound principles of policy-making.

The author argues for the development of policies to tackle organised crime and corruption based on proper research and analysis of the specific context. Such research should break down the problem into clear components, identify their causes, and select specific and appropriate measures to address each component or causal factor. In particular, given the wide range of measures to tackle the problem on offer, the paper argues that there is a pressing need to correct the current bias – reflected, *inter alia*, in international standards – towards criminal law enforcement solutions, particularly in the case of organised crime.

2. Organised crime and its nexus with corruption

2.1. Contested concepts

As in the case of corruption, organised crime has for decades been the subject of definitional debates. Concepts of organised crime developed primarily from the United States (US), where from the 1920s onwards it has tended to be seen (especially by law enforcement agencies) as a formal, hierarchical phenomenon whose participants have clearly defined roles, and which is created rationally for the purpose of maximising profits by performing illegal services or trading in illegal goods. The limits of this understanding of organised crime have been highlighted in recent decades from many perspectives, and some sceptics even question whether organised crime exists as a separate phenomenon (Wright 2006, 14-21).

This paper does not intend to enter or discuss at length debates surrounding the definition of organised crime. It is assumed here that organised crime as a concept is a useful one, but that its manifestations vary widely in practice. The paper broadly follows the United Nations Convention against Transnational Organised Crime (UNTOC), which defines organised crime as serious crime that is committed by an organised criminal group, where:

- “Organised criminal group” means a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences in order to obtain financial or other material benefit;

- “Serious crime” shall mean conducting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;
- A “structured group” is a group that is not randomly formed for the immediate commission of an offence and does not need to have formally defined roles for its members, continuity of its membership, or a developed structure.

The United Nations (UN) definition is an explicit attempt to maintain a clear concept of organised crime while allowing for its many variations in terms of its degree and nature of organisation. The definition enables the concept to cover not only traditional hierarchical, mafia-style organised crime structures, but also the increasing prevalence of more flexible and decentralised modes of organised crime, such as those prevalent in West Africa. A central point running through this paper is that the varied nature of the problem should be a key fact informing the development of effective policies to tackle it in a particular setting. In terms of the activities in which organised crime engages, the author broadly follows the understanding of organised crime as ‘illicit enterprise’, that is “the extension of normal market activities into areas which are normally proscribed – i.e. beyond existing limits of the law – for the pursuit of profit and in response to latent illicit demand” (Smith cited in Wright 2006, 56). The understanding of organised crime as illicit enterprise is useful as it avoids stereotypical depictions (for example as traditional Sicilian-style mafia families),¹ and also underlines its integration into the world of legitimate business (see section 2.2).

Likewise, this paper avoids entering any debate over the proper definition of corruption, and simply stresses two themes. First, corruption may take many different forms, each of which will be manifest to different extents in different types of linkages with organised crime. Second, being sensitive to the variation in such linkages is a first step towards designing effective policies to tackle the organised crime-corruption nexus.

2.2. Types of activities

The activities or sectors in which organised crime engages are many, ranging from traditional protection rackets to the organisation of production in the grey economy of ordinary consumer goods. Wright provides a useful list of activities in which organised crime is involved, a modified version of which is shown in Table 1 (Wright 2006, 49). The table is not exhaustive, but reflects the main activities in which organised crime is currently engaged, according to the available evidence. Wright usefully divides these activities into ‘primary activities’ – the areas from which profits are made, and ‘enabling activities’ – activities that enable the achievement of organised crime goals and profits.

¹ For example, the Cosa Nostra model that is still influential in the US and tends to regard organised crime as “a nationwide alliance of ... tightly-knit criminal Mafia families” (Wright 2006, 4).

Table 1: Main Activities in which Organised Crime Engages

Primary activities (subject of business)	Enabling activities
Counterfeiting	
Drug production and trafficking	
Extortion and protection rackets	
Illegal arms dealing	Corruption of officials
Illegal vice: gambling and prostitution	
Illegal provision of services (e.g. unauthorised waste disposal)	Violence, threats and intimidation
Labour racketeering	Money laundering
Loan sharking	
Marine piracy	Cybercrime
People trafficking	
Smuggling (e.g. stolen vehicles, art, contraband)	
Theft, robbery, hijacking, kidnapping, murder	
Fraud, white-collar and corporate crime	

Two issues of particular importance are raised by Table 1. First, it is clear that organised crime engages in a very wide range of activities. Following the ‘illicit enterprise’ understanding of organised crime cited in section 2.1, organised crime may involve the provision of goods or services that are entirely or mostly illegal. Drugs are the prime example, and figure heavily in the examples from around the world presented in this paper – notably in Latin America, West Africa, and Afghanistan.

However, organised crime may also involve the provision of goods and services that are legal, but in violation of existing laws. Good examples from Italy provided by Roberto Saviano in his recent exposé of the Neapolitan mafia are the mafia-organised underground production of clothes for world markets at cut prices by the avoidance of tax, health and safety regulations and the like, and the illegal disposal of waste (Saviano 2008).

In addition, those that carry out organised criminal activities will very often do so within the context of an entirely legitimate business. An example is corporate crime such as the distortion of company accounts in order to show non-existing profits (the Enron scenario), activities that were conducted entirely in the context of provision of legal goods and services. Another good example of the merger of illicit and licit business is provided by Latin America, where according to Briscoe

[T]here is no clear-cut distinction between crime and legality ... “criminal” trafficking occurs alongside and within licit trade: legitimate import-export businesses ... in Brazil have provided space for drug shipments; drugs and other goods can easily be stashed in the \$900 million daily commerce between Mexico and the United States or the booming bi-national trade between Venezuela and Colombia; and in Ciudad del Este, the distinction between legal goods, illegal goods, extra-legal handling and legitimate trade are constantly blurred by almost all firms (Briscoe 2008, 7).

Second, the division of organised crime activities into primary and enabling activities is very important, as it provides an entry point for understanding the relationship between organised crime and corruption. As Table 1 shows, primary activities are those activities from which organised criminals generate a profit. Enabling activities are those that make possible and/or facilitate the conduct of these primary activities. Not surprisingly, corruption is one of the primary enabling activities. Such corruption may take many different forms – varying from petty bribery of customs officials to ignore drug shipments to the integration of high-level border officials or even national politicians into the illegal trafficking networks. Section 3 elaborates further on how the relationship between organised crime and the state is reflected in specific types of corruption.

3. The nexus: Organised crime and the state

In the context of organised crime, corruption may be characterised as the ways in which organised crime infiltrates or penetrates the state (public sector). While organised crime may exist without corruption – for example, organised people trafficking and forced prostitution into Germany and the UK probably take place without the direct involvement of public officials in the destination countries – it seems reasonable to assume that organised crime can not thrive without such connivance or direct participation of state actors, and even in the example stated, corruption may have been an enabling factor in the source country. This section therefore attempts – based largely on existing literature – to clarify the range of ways in which organised crime may infiltrate the state.

Buscaglia and van Dijk distinguish the following five different levels of infiltration or penetration of the public sector by organised crime (Buscaglia and van Dijk, 2003):

- i) Sporadic acts of bribery by organised crime, or abuse of public office, at low levels of government agencies.
- ii) Acts of corruption occurring on a frequent basis by having low-ranking state officials on the organised criminal payroll.
- iii) Infiltration by organised crime of the managerial domain of public agencies in an attempt, for example, to bias the hiring of state personnel in order to favour the operations of criminal groups.
- iv) Corruption of the heads of agencies responsible directly or indirectly for fighting organised crime-related activities (e.g. drug enforcement agencies); may involve cases of agencies providing potential long-term benefits to a criminal group (e.g. customs).
- v) Capture of the State's policies by criminal groups who are then able to bias law making, law enforcement and judicial decisions themselves. This level will usually involve the compromising of high-level officials such as senators, ministers or even presidents of countries; at this stage, organised crime is involved in the campaign financing of politicians or through other, more common, types of extortion and family links to high-level officials.

These types of infiltration are listed in order of increasing seriousness: the fourth level “represents an increased perniciousness with long-term negative effects on the capacity of the State to eradicate corruption and organised crime” (Buscaglia and van Dijk 2003, 23-24) and, by implication, the fifth level has even more serious implications.

While the five categories of infiltration are clearly useful for organising our thoughts, they do little to give us a broader picture of the effects of organised crime on government and the political system in general, through corruption of various kinds but also violence, extortion and other forms of control. As Bailey and Godson explain in their contribution focused on organised crime and corruption in Mexico and the Mexico-U.S. borderland, proponents of traditional law enforcement approaches tend to assume implicitly that organised crime is an essentially hermetic problem which has no important external effects on the broader political and economic system, and therefore, that simply strengthening law enforcement operations will solve the problem. They argue, by contrast, that organised crime in Mexico and the borderland can not be understood without a deeper understanding of more deeply-rooted “criminal-political alliances”, that is “on-going, complex networks of cooperation and exchange between criminal groups and political authorities – both elected and appointed – at different levels of government” (Bailey and Godson 2001, 3). They present two different models of the relationship between organised crime and corruption:

The “centralised-systemic” model, in which political leaders control the webs of alliances between organised crime and the state from the top down. In this view, “corruption at any level has a pyramid-like structure, and the president, at the top of the hierarchy, is

typically the primary benefactor ... organised criminal groups are not as much a *consequence* of weak governments, as the *product* of corrupt political officials” (Marat 2006, 22-23).

The “fragmented-contested” model, which sees “a much more fluid and complex set of relationships between the political system and organised crime ... [in which] criminal-political alliances are dynamic and constantly changing, depending on a variety of circumstances” (Bailey and Godson 2001, 3).

Marat has applied these models in an analysis of the organised crime-corruption nexus in Central Asia. She points to post-civil war Tajikistan, Krgyzstan under the Askar Akayev regime, Vladimir Putin’s Russia, and Kazakhstan since the late 1990s, as examples of countries where the state exercises a high degree of control over organised crime (the centralised-systemic model). This type

[...] emerges under government’s control and penetrates throughout all state structures. It is a top-down construction that begins at the highest echelons of government and extends down to local governments. All governmental structures, including law enforcement, military, and border guards are under the centralized state’s oversight (Marat 2006, 23).

Boris Yeltsin’s Russia, Tajikistan during the civil war, Kyrgyzstan after the Tulip Revolution, and Eduard Shevardnadze’s Georgia are cited as examples where the state and organised crime exist separately, but interact (the “fragmented-contested” model). In these countries, typically

[the] organized criminal network is connected through underground links, representing a strong parallel authority outside the official state structures. Although the government and the parliament are legitimately elected in free and fair elections, underground networks may exercise significant control at the local level and be largely involved in legal and illegal businesses. In this type of the state-crime relationship, some state structures, such as border guards and police, might be involved in organized crime, however, they will operate without regard for central state’s regulations (Marat 2006, 22).

On the basis of the author’s experience, a third category might be added, which is where the state stamps out “organised crime” entirely, yet remains fundamentally corrupt in the sense that the political elite or part of it – typically the president, ministers and/or their relatives – monopolises profitable and legal business sectors and maintains such monopolies through barriers to entry deliberately maintained by the state; such barriers will typically be both legal/formal (such as restrictive and discriminatory legal requirements on imported goods), and illicit/informal (for example the harassment of possible competition by law enforcement, customs, or tax authorities).

It is important to note that the situation is further complicated by the fact that the categories described above are generic ideal types, and in real life are not discrete (separated). Within each category, the extent of infiltration may vary greatly, for example in terms of depth (the number and type of officials co-opted by organised crime) or the frequency of bribes. In addition and inevitably, the way in which organised crime and the state interact will often not fit perfectly into one of the categories, but will tend to be a combination that blurs the lines between the categories. Last but not least, real-life situations will often be dynamic and evolving. A good example is Afghanistan, where according to the UN and World Bank in 2006, the drug trade (virtually the sole domain of organised crime in that country) was becoming increasingly consolidated, and there were disturbing indications of vertical integration and institutionalised political protection (Buddenberg and Byrd 2006).

The example of Afghanistan alone highlights another crucial fact, which is that the way in which organise crime and corruption interact is a product of a complex set of factors, which will combine in different ways in different countries or environments. These factors include (but are not limited to) geographical size, geographical location, the degree of consolidation of state authority or power, the

aims of the political/administrative elite, political and administrative structure, ethnic structure and relations, the structure of the licit and illicit economy, and levels and distribution of income.

Implications for policy

A key theme of this paper emerges from the above considerations. This is that the different types of relationship between organised crime and the state and their specific variants in specific contexts have very different implications for what policy strategies will be needed to tackle them. To somewhat oversimplify, the first four types of infiltration of organised crime listed by Buscaglia and van Dijk may be amenable to policies based on improved law enforcement, for example where the problem is small-scale organised smuggling coupled with regular bribery of low-level customs officials, with no major knock-on effect in terms of higher level corruption.

At the other extreme, where elements within the state itself have taken control of organised crime, the result will be an entirely different type of corruption, typically based on a pyramid of top-down control, and a complex system of patronage. The strategies or measures that will be appropriate in these two contexts are likely to be radically different. Bailey and Godson argue that in Mexico, despite the main thrust of US and Mexican policy, there is “little room for optimism that law enforcement alone is the principal route to reform”. Rather, major reforms of the police and judicial system must be introduced in the context of the “extensive reform of the Mexican state, including the introduction of career civil service along with professional ethics in law enforcement and judicial procedures, and programs of civic education to promote a culture of legality.” In addition, reducing the demand for illegal drugs in the US is a crucial factor – although this leaves open the question of whether this should be done by punishing consumption, or by some form of decriminalisation/legalisation of drugs.

4. Examples

An examination of the evidence from selected major theatres of organised crime underlines the variation in the degree to and manner in which organised crime infiltrates the state in different countries. This section provides a short description of the organised crime-corruption nexus in three geographical areas – Afghanistan, Latin America, and West Africa – to the extent that the available information allows, with briefer notes on the former Soviet Union and Southern Italy. It is vital to take account of the fact that both corruption and organised crime are fundamentally difficult to observe, from which follows that tracking the nexus of the two will be equally or more difficult. As the United Nations Office on Drugs and Crime (UNODC)/World Bank state with reference to Afghanistan:

Obtaining reliable data on organized crime in any setting is a significant research challenge ... [s]tudying organized crime in such a context has been compared to paleontology (the study of fossils), i.e. the collection of small fragments of evidence from which broader hypotheses can be constructed and tested ... (Buddenberg and Byrd 2006, 209)

This observation applies at least as much to the collection of evidence on corruption. Moreover, the problem is exacerbated by the fact that organised crime tends to flourish where – following the distinctions outlined in section 3 – state institutions are either weak, compromised, or they themselves control organised crime. This will tend to render less reliable official data on anything that might provide relevant evidence – whether that is criminal proceedings, customs statistics, or other information.

Notwithstanding these problems of observation, the country examples provided in the subsections below illustrate the diversity of forms of organisation that organised crime takes, as well as the variety of activities it engages in. They also provide worrying indications of the failure of law enforcement approaches when relied on to tackle organised crime, with law enforcement efforts either being ineffective, pushing organised crime to different and often less accessible locations – a kind of balloon

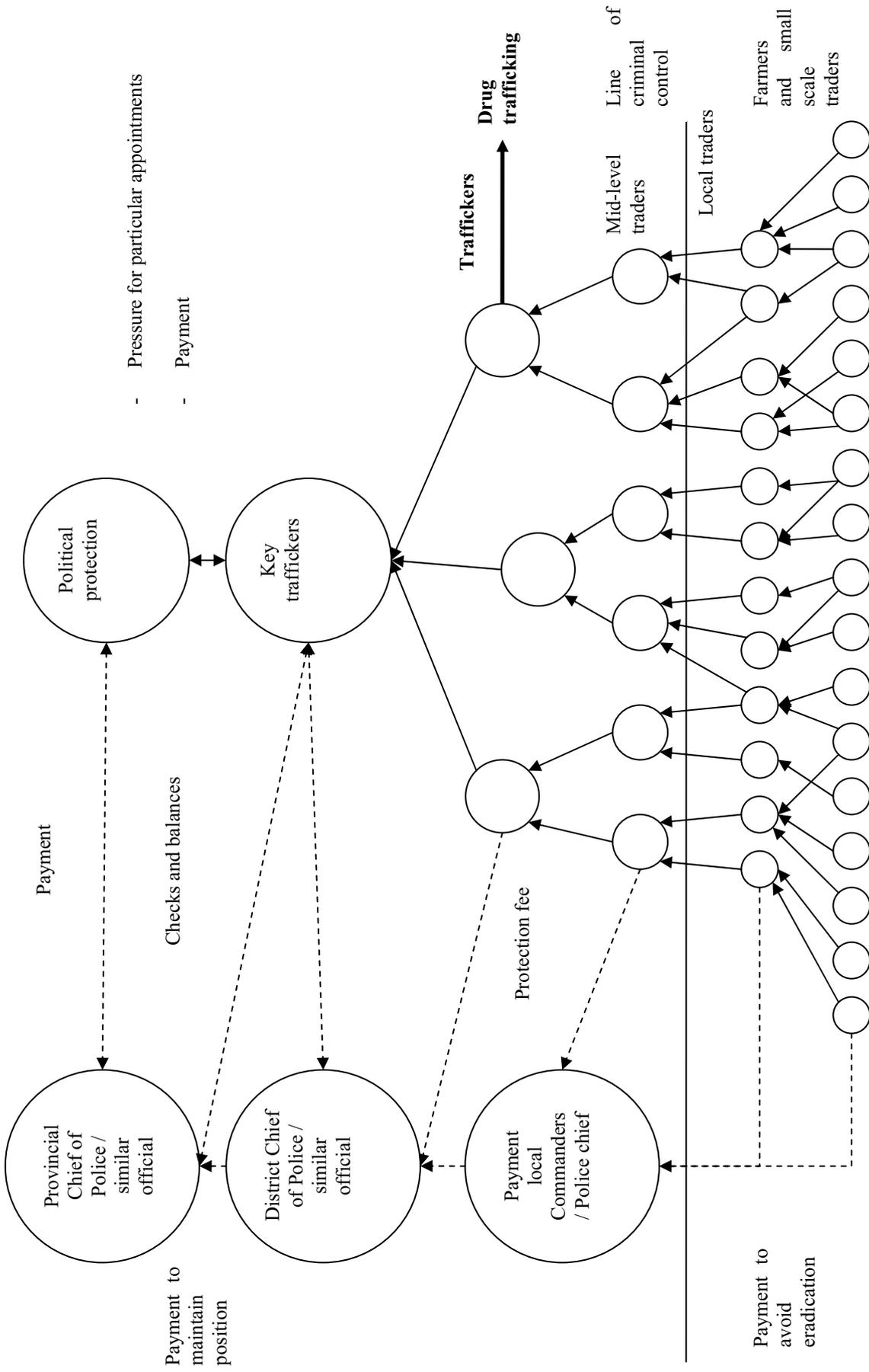
effect, and, worst of all, perhaps having explicitly negative effects on governance; this issue is developed further in section 5.2.2.

4.1. Afghanistan: Opium, war and “post-conflict” consolidation?

The links between organised crime and corruption in Afghanistan are a product of many factors, key among which are the country’s role as the world’s number one opium producer, a lack of a history of sustained central administrative and political control, the persistence of war for almost three decades and the development policies pursued under the influence of the international community. The picture in Afghanistan in 2006 is summarised by the UNODC/World Bank report cited earlier as follows:

- After the 2001 intervention by the US to unseat the Taliban, the forces that were assisted to capture Kabul were the main source of security, remaining loyal in exchange for direct payments from the US military. When responsibility for such payments was shifted to the Ministry of Defence, rampant corruption at the ministry prevented a large proportion of the payments (estimates are around 60 percent) reaching their destination, and armed groups turned increasingly to opium poppy cultivation and opium trafficking as well as selling protection.
- A consequence of the process of political normalisation has been the increasing entry into politics of former warlords. While they, as well as political parties, had previously been directly involved in drug trafficking, screening of electoral candidates meant that as politicians, the former warlords were eager to distance themselves from drug trafficking.
- The consequence, as of 2006, was a situation where politicians had become separate from the criminal underworld that actually conducts the drug business, yet continued to benefit from drug trafficking through a complex set of payoffs (bribes) that developed as a result (see Figure 1)
- This has coincided with a developing system of appointments to police positions by the Ministry of Interior whose purpose is to ensure protection for particular organised criminals. Partly as a result of the development of this system of political protection, control of the drug production and trafficking has become increasingly consolidated.

Figure 1: Pyramid of protection and patronage



(Based on Buddenberg and Byrd 2006, 200)

Since the UNODC/World Bank report, developments have not been mapped in as much detail. However, concerns in the international community at the perceived inability of the administration of President Hamid Karzai to address problems of corruption have been increasing. In 2008, one of then-President George Bush's top counter-narcotics officials accused Karzai of trying to thwart US efforts to crack down on poppy cultivation and "protecting drug lords and narco-farmers", and in 2008, the New York Times quoted allegations by White House officials that one of Karzai's brothers, Ahmed Wali, was involved in drug trafficking – an allegation denied by Wali (The Guardian 2009). While no evidence has been presented publicly for these accusations, if true, they would be consistent with the picture offered by the UNODC/World Bank report, which warned that

[t]he opium economy by all accounts is a massive source of corruption and undermines public institutions especially in (but not limited to) the security and justice sectors. There are worrying signs of infiltration by the drug industry into higher levels of government and into the emergent politics of the country. Thus it is widely considered to be one of the greatest threats to state-building, reconstruction, and development in Afghanistan (Buddenberg and Byrd 2006, 1).

At a minimum, it appears that the first three categories of infiltration listed in section 3 are well established in Afghanistan, and it appears likely that the other two types are also present. A key issue raised by the UNODC/World Bank report is the complexity of the system of corruption that has – and the report does not even attempt to map the extent to which political protection extends within the political elite.

Regarding efforts to reduce poppy cultivation, the report is less than sanguine about the impact. Poppy cultivation appears to have increased since 2006 (Kilcullen 2009, 63), and the UNODC/World Bank report states explicitly that:

[I]n an environment of poor governance, weak capacity, and lack of rule of law [...] eradication efforts are *a vehicle for corruption*, with farmers being forced to pay in order not to have their opium poppy crop eradicated, police confiscating drugs and then selling them on and/or returning part of the seizure in return for a payment, favoritism on the part of government officials toward associates in the drug industry while cracking down on 'competitors' to drive them out of the market, and more generally larger 'protection payments' being exacted (Buddenberg and Byrd 2006, 6).

4.2. Latin America: The growth of lawless border regions

Latin America, understood here in a broad sense as encompassing the states of Southern and Central America and the Caribbean, provides a gloomy picture of the expansion of organised crime in the region over the past decade. Latin America, as the key theatre of the US "War on Drugs", also highlights the limits and negative side-effects of the law enforcement/military-oriented solutions to organised crime that have continued to dominate policies advocated by the international community – and often employed with relish by national governments.

The location of Colombia as the prime source (together with Bolivia and Peru) of the world's coca crop and the proximity of the US as the world's main consumer are key factors underpinning the nature of organised crime in the region. However, drugs are not the only sector in which organised crime operates, and smuggling of arms and people, together with money laundering, are other key areas. In countries that are large and/or have remote and inaccessible regions, the key characteristic of organised crime in the region has been the development of border regions that are beyond the control of the central state. Examples include the border region between Colombia, Venezuela and Ecuador (the location of the largest coca plantations), the US-Mexican border region (the main route for smuggling drugs, arms and people into the US) and the tripartite border between Argentina, Brazil and Paraguay (home to the key organised crime centre of Ciudad del Este). Criminal organisations colonising border regions are highly skilled at adapting to "adjust their trafficking systems to any good

that is prohibited from passing the border; the frontiers, in short, are ‘places of opportunity and exploitation ...’” (Briscoe 2008, 5). This flexibility extends also to geographical location, as evidenced by the movement of coca plantations in response to law enforcement operations.

Mapping organised crime on the Central and South American continent is beyond the scope of this paper. Two issues of particular relevance are highlighted here, however. The first issue is the importance of corruption as an enabling factor for organised crime. This is especially the case for trafficking, where security forces in the region are notorious for complicity with traffickers. Briscoe notes that

[t]he case of the [Mexican] Gulf cartel’s hit-squad the Zetas, forged by veterans of a 1990s Pentagon-run special forces training programme, is not a mere curiosity. Systematically, throughout Latin America, security force members and judicial authorities – many of them instrumental to repressive national security regimes from the Cold War – have tolerated, supported or graduated into criminal activities: notable cases include Guatemala’s anti-narcotic police department, DOAN (dissolved in 2002), its special military branch the kaibiles (many of whom joined drug cartels after force numbers were cut in the post-civil war era), and its police forces, now subject to regular purges. In terms of border policing, it is instructive to note that Guatemala’s first major mafia network with links to many parts of government, the so-called Grupo Salvavidas (lifesaver group), was born out of corrupt officials in the customs service. Meanwhile, police in Brazil, Argentina, Honduras and El Salvador (particularly after the latter’s civil war ended) have all been associated with extra-judicial killings and numerous illicit rackets (Briscoe 2008, 7-8).

In addition to the collusion of security forces with organised crime (which falls under infiltration types i-iv in section 3), links between organised crime and a number of countries’ political establishments appears likely in the region. In a February 2009 interview, Brazil’s former president Fernando Henrique Cardoso stated openly that:

In Colombia, even today, some people connected to the political life, members of Congress who are involved in elections, [are compromised]. In some cities [in Brazil], it is also clear that there is linkage between election financing and drug traffickers (Foreign Policy 2009).

Briscoe states that Ciudad del Este retains its “exceptional extra-legal status” partly due to its links to Paraguay’s political establishment (Briscoe 2008, 5). He also notes mutual accusations – between Colombia, Ecuador, and Venezuela following Colombia’s March 2008 border incursion, mainly from evidence from computers of the killed paramilitary FARC commander – of

[...] complicity between the militia and neighbouring governments, reportedly extending to financial support from [Venezuelan President Hugo] Chávez and logistical aid from his head of military intelligence, Hugo Carvajal; the leaders of Ecuador and Venezuela responded with vituperative attacks on [Colombian President Alvaro] Uribe’s own alleged ties to the paramilitary forces.

The second issue that Latin America highlights is the sheer ineffectiveness of strategies to tackle organised crime that are based only on law enforcement, military, or semi-military strategies. For example, the offensive conducted by Colombia against armed groups in the border regions may have weakened such groups substantially, but by all accounts has not reduced coca production, which has “moved to more inhospitable and remote regions ... with the results that these economies, involving peasant farmers, organized criminals and armed actors, have become ever more difficult to dismantle” (Briscoe 2008, 6).

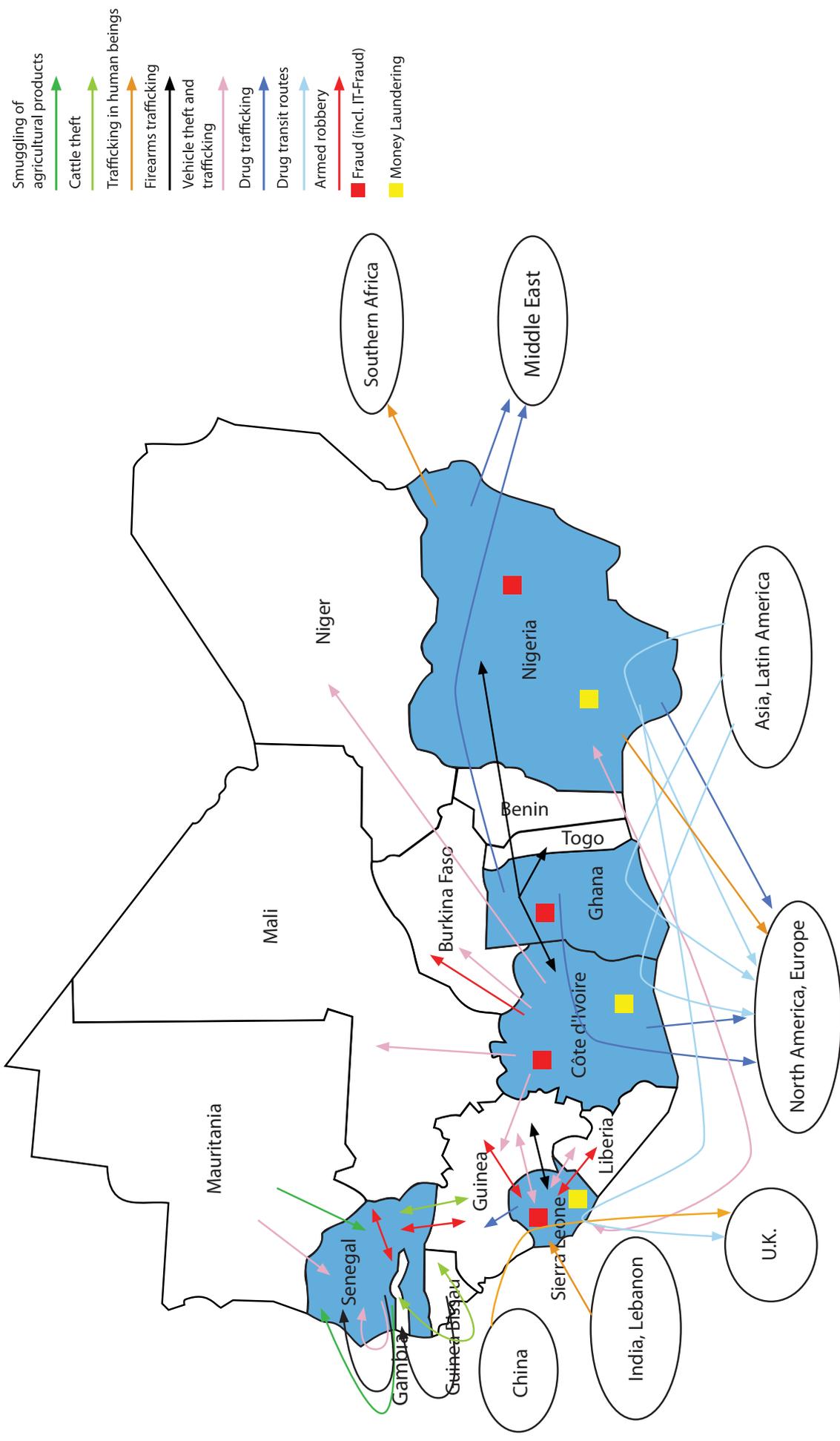
Likewise, towards the other end of the drug supply chain, according to UNODC officials, the success of law enforcement against smuggling of drugs via the Caribbean into Florida has led to a reorientation of supply to the Central American route to Mexico, through which the proportion of total US imports of cocaine rose from 50 percent in 2005 to 90 percent in 2006. Mexican President Felipe Calderón has, since 2007, pursued a concerted campaign to fight organised crime. The results have been threefold. First, Mexican cartels – which themselves have become the dominant traffickers, partly due to heavy law enforcement on Colombian cartels – have attempted to reach beyond Mexican boundaries to traffic drugs, reportedly to Guatemala, Peru, and Argentina (Logan 2008).

Second, serious corruption of the country's law enforcement agencies has been revealed. In November 2008, the head of Mexico's Federal Preventative Police force, Victor Gerardo Garay Cadena, resigned, and Attorney General Eduardo Medina-Mora Icaza admitted that the nation's powerful drug cartels had purchased the allegiance of senior officials in his agency – 11 years after the head of the country's anti-drug agency was arrested on corruption charges (Associated Press 2008). The top official in charge of assigning police to organised crime investigations and his deputy in charge of intelligence were arrested. Three other junior officials were also indicted, and 30 fired. According to investigators, the arrested officials had been passing information to the cartels in return for up to USD 450,000 a month in bribes (The Economist 2008).

The third result has been a massive escalation in violence that was continuing at the time of writing; after armed groups linked to the cartels murdered around 2700 people in 2007 unofficial estimates put the death toll in 2009 at more than 4200 by February. Section 5.2.2 returns to the case of Mexico as an example of the failure of current approaches to fighting organised crime based on drug prohibition and law enforcement – a failure that some fear could even lead to the collapse of the state.

4.3. West Africa: Failing states?

West Africa is another region where the growth of organised crime is causing particular alarm to the international community. Organised crime in the region is particularly complicated to describe, with each of the 15 countries of the region implicated in different ways and to different extents. A rich but differing colonial past, conflicts, and civil wars between the 1960s and 1990s, and various economic shocks and pressures in the 1970s and 1980s all encouraged the growth of organised crime. The UNODC identifies at least eight different forms of trafficking within and from the region (see the map below) as the main forms of organised crime, to which the illegal trade in diamonds from Sierra Leone should be added.



Again, this paper can not provide a comprehensive overview of the region.² Rather, three important issues are raised here. The first issue is the growing concern the region is becoming to the international community. According to all available sources, organised crime in the form of trafficking of drugs sourced from South America to Europe has developed rapidly in recent years. According to the UNODC in 2008, “[t]he former Gold Coast is turning into the Coke Coast” (UNODC 2008). In particular, Guinea-Bissau has been posited as the primary target for transit of South American cocaine to Europe, due to US law enforcement efforts in South America and – primarily – to rapidly increasing demand in Europe. In a statement to the UN Security Council in December 2007, UNODC Executive Director Antonio Maria Costa stated that

Guinea-Bissau has lost control of its territory and cannot administer justice ... There is a permeability of judicial systems and a corruptibility of institutions in West Africa ... Guinea-Bissau is under siege. Literally under siege (World Politics Review 2008a).

The situation of Guinea-Bissau reads like a textbook example of ideal conditions for trafficking. The country is one of the ten poorest in the world and has hundreds of miles of unguarded coastline and islands, a recent civil war, and visa-free relations with its former coloniser Portugal. By all accounts, the quantities of cocaine smuggled through the country have skyrocketed in recent years. While UNODC and Guinea-Bissau’s government are implementing a USD 19 million international assistance plan to provide surveillance equipment and police training, the existence of so many countries with weak institutions and favourable geographical locations for trafficking would seem likely to make it easier for traffickers to relocate from places where law enforcement makes an impact to places where it is less effective. Most attention has been focused on Guinea-Bissau, where the assassination, in March 2009, of President João Vieira and the subsequent killings of several prominent politicians has been widely interpreted as being linked to the struggle of the army for control over the drugs trade (Afrik.com 2009). However, other countries in the region – such as Burkina Faso (trafficking) or Ghana (drug production) – are also affected, or expected to be affected. Indeed, according to a recent article in *The Economist*, Nigeria, “as the economic hub of West Africa [...] has, inevitably, become its drug-trafficking hub” (*The Economist* 2007).

The second important issue to note regarding organised crime in West Africa is its highly flexible and decentralised nature. In contrast to the hierarchical model of traditional organised crime, in West Africa, the typical model is based on networks and project-based operations in which

[A] criminal entrepreneur and two or three apprentices hire others for specific purposes, and for short duration, using a traditional method of organizing business enterprise. Recruitment often takes place through channels of kinship or other association (UNODC 2005, 18).

This form of non-linear organisation, where persons are often hired on an *ad hoc* basis for one specific task, and may switch roles between specific jobs (making it impossible to identify key figures whose removal will disrupt the organisation), and where recruitment tends to take place within local communities, makes criminal organisations extremely difficult to penetrate in the West African context. According to the same report, many other factors strengthen the resistance of organised crime, including a tradition linked to the colonial past of seeing organised crime as a form of political resistance.

The third issue concerns the links between organised crime and corruption in West Africa. While the evidence on links to corruption remains very sketchy, there is a widespread perception that organised crime corrupts not only lower level officials (in particular the police and border authorities), but also politicians. The decentralised and networked nature of organised crime in the region makes it particularly difficult to identify organisational links between organised crime and the state, but the

² A useful historical overview of organized crime in the region can be found in Wannenburg (2005).

UNODC report states that “[w]hile evidence as to the extent of this problem is difficult to acquire, the link between corrupt practices and the growth of organized crime is clear and must constitute a critical area for intervention” (UNODC 2005, 37). The following examples from other reports may provide some indication of the problem:

- According to the 2003 Transparency International (TI) *Global Corruption Report*, almost every customs officer in Benin is assisted by at least one ‘*klébé*’ or ‘banknote ripper’ who helps the officer ‘control fraud’, takes a ten percent commission on seizures as they do so, and extorts an illegal toll on anyone wanting to move goods through customs (TI 2003, 221).
- In 2004, police arrested an international smuggling gang in Ghana with 675 kg of cocaine (with a street value estimated at USD 140 million). The suspects were released on bail of just USD 200,000. The UNODC report states that there are other examples from Ghana suggesting that criminals are able to bribe judges, and that in Côte d’Ivoire, a minister of justice described the country’s justice system as “wrecked” (UNODC 2005, 7).
- The biweekly Africa Monitor alleged in 2008 that Guinea-Bissau’s Internal Administration Minister Baciro Dabo, whose office heads police and state security, had been involved in cocaine trafficking, and also made allegations of links between Navy Chief Bubo Na Tchute, a close ally of President João Vieira, and drug profiteering (World Politics Review 2008b).
- It was reported in October 2008 that police were investigating Sierra Leone’s minister for transport and aviation, Kemoh Sesay after his brother (also manager of the national soccer team) was arrested in September in connection with a seizure of 700 kg of cocaine on a chartered plane at the country’s main airport (World Politics Review 2008b).

These seem to provide examples of all of the five types of organised crime infiltration presented in section 3. Some Western African states may also have become colonised partly or entirely by organised crime, while the scenario of centralised state control over organised crime may apply to Liberia under the presidency of Charles Taylor and the rule of the Armed Forces Ruling Council junta in 1997-8 in Sierra Leone. According to UNODC, the Sierra Leone police reported that members of the ARFC pioneered the use of Sierra Leone as a transit point in the international drug trade (UNODC 2005, 8).

Regarding policies to tackle organised crime, there is limited material to assess the effectiveness of efforts to tackle organised crime through law enforcement measures. However, it is worth noting that the descent of Guinea-Bissau into lawlessness does not appear to have been impacted by the UN aid to law enforcement mentioned previously. The significance of West Africa appears to have grown, partly as a result of law enforcement efforts in Latin America, and partly due to rapidly increasing demand for cocaine in Europe. In short, organised crime has – rather like a balloon that is squeezed – moved to colonise new territories on the African continent that offer more amenable conditions for trafficking to Europe.

4.4. Other examples: A picture of variation

The very brief accounts above of organised crime and its relationship to the state in three geographical areas underline the variation in the specific forms organised crime takes, depending on the specific context. Other examples reinforce the picture of regional variation. For example:

- In Southern Italy, organised crime is still arranged around traditional family structures, although the degree of competition between families and the way in which business is done varies even between Sicily and Naples. Organised crime infiltrates a wide range of businesses, from drug trafficking through construction to clothes manufacturing to waste disposal. Although it pursues ties with the state, the relationship between the mafia and the state is highly complex, with various degrees of infiltration of local politics and administration, contrasting with relative autonomy of national police forces (Dickie 2004; Saviano 2008).

- In Russia, the development of organised crime has been fundamentally shaped by the nature of the former centrally-planned system and the organised crime groups that emerged during that period, and the opportunities for infiltration of business in general after the fall of communism. “Russian organised crime groups make extensive use of government apparatus to protect and promote their criminal enterprises ... [and] most businesses in Russia, whether legal or not, operate with the protection of ... [police or security officials]...”(Wright 2006, 148). The transition from Boris Yeltsin to Vladimir Putin has seen a decrease in the autonomy of organised crime from the state.

5. Tackling the organised crime-corruption nexus: Conventional wisdom

This paper has attempted to underline the complexity of the nexus between organised crime and corruption in terms of the variety of ways in which organised crime and the state may interact, and provided some illustrations of that variety. This section provides a critique of approaches to tackling organised crime and corruption that are based on international standards and other ‘best practices’ – which tends to mean an approach based on criminal law and its enforcement.

5.1. International standards

Binding international standards relating to organised crime and corruption focus on three main issues: criminalisation of corruption and organised criminal activities, international cooperation in judicial matters, asset recovery, and the establishment of frameworks to prevent and sanction money laundering. The most important international instruments in this regard are the United Nations Convention against Corruption (UNCAC, 2005), UNCTOC (2003), and the Financial Action Task Force (FATF) on *Money Laundering's 40 Recommendations* (FATF, 2003). These global instruments are to some extent reflected in regional conventions containing similar obligations, especially in Europe under the auspices of Council of Europe conventions (1999a and 1999b). The main instruments overlap considerably, for example on the issues of money laundering, criminalisation of corruption or confiscation of proceeds from crime.

In the area of **organised crime**, the UNCTOC is focused entirely on criminal law and its enforcement: definition of organised crime, criminalisation of participation in an organised criminal group, measures to combat money laundering, criminalisation of corruption and other measures to prevent corruption, confiscation and seizure of assets, and international judicial cooperation (for example on extradition).

For **money laundering**, the main international instrument for standards is the FATF, an inter-governmental body created in 1989 to develop and promote national and international policies to combat money laundering and terrorist financing. The FATF has published 40 recommendations for the prevention of money laundering, and nine special recommendations on the prevention of terrorist financing. The FATF conducts (largely peer) evaluations of the fulfilment of recommendations by other members.³ FATF recommendations are directed at the criminalisation of money laundering and terrorism financing, freezing and seizure/confiscation of proceeds from crime, monitoring by financial institutions of transactions and customers, and the establishment, in each country, of a system for notifying suspicious transactions to a financial intelligence unit and the further processing of such information. While the recommendations, together with monitoring by the FATF and regional bodies such as the Council of Europe's evaluation committee,⁴ have led to a proliferation of legislation and

³ See more about the FATF at

http://www.fatf-gafi.org/pages/0,2987,en_32250379_32235720_1_1_1_1_1_1_1,00.html.

⁴ In Europe the FATF standards are monitored together with fulfilment of the obligations of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the

institutions to prevent and fight money laundering and terrorism financing, critics suggest that the FATF in particular has weakened its approach by ceasing, after 2001/2, to name and shame non-compliant countries, and by emphasising the fight against terrorism financing at the expense of any concern with laundering proceeds of corruption (Global Witness 2009).

In the area of **corruption**, UNCAC contains a large number of provisions on the criminalisation of particular corrupt acts, law enforcement, international legal cooperation, and asset recovery. It also contains a considerable number of other standards that are not related directly to criminal law enforcement. These include, in particular, obligations to ensure the existence of a national anti-corruption body or different arrangements to implement policies to prevent corruption, put in place provisions and/or frameworks to promote a professional civil service and address conflict of interest, promote codes of conduct, require declarations of assets/incomes/interests, protect whistleblowers, regulate public procurement, ensure access to information, and ensure transparency and integrity of budget processes.

Nevertheless, the majority of the UNCAC's provision – and especially its binding obligations – relate to criminal law-related matters. In many of the non-criminal law areas, other organisations have developed various sets of **best practices**. Examples include TI's National Integrity System (TI 2000), the United Nations Anti-corruption Toolkit (UNODC 2004), the Organisation for Economic Co-operation and Development's (OECD) guidelines on conflict of interest regulation (OECD 2005) and on public procurement (OECD 2007), International Accounting Standards and state audit standards issued by the International Organization of Supreme Audit Institutions (INTOSAI), or budget standards issued by the International Monetary Fund (IMF).⁵

Many of the obligations in international conventions, and many best practices such as those listed above are of great importance and may have considerable impacts on organised crime and corruption. For example, the establishment of a professional civil service may be a key component in any strategy to tackle the organised crime-corruption nexus. However, the application of these best practices in reality lacks any coordinated approach for identifying which policies are needed in a given setting, how they should be prioritised, and how they should be tailored to the local context.

Moreover, in a number of the key areas – notably the financing of political parties and election campaigns, which provides an important entry point for organised crime to exercise influence or control at the highest level – the complexity of the issue makes the establishment of universal standards problematic beyond statements of general principles, implying that effective regulations inevitably need to be home-grown.⁶

An unfortunate result of the international attention paid to anti-corruption is that it is a policy area curiously exempt from obligations that would seem normal in other areas – notably, an obligation to base policy on research and analysis of the target problem, and to justify policies in terms of domestically legitimated criteria, including a cost-benefit analysis. The result of the lack of a proper framework or policy approach to determine the policies that are needed in a particular context is that international conventions and best practices take the form of a shopping list, some of which are obligatory, but the implementation of any of which is a way to secure positive evaluations from international organisations or bilateral donors. Where research is conducted, this tends to be a comparison of the domestic legal/institutional framework with international best practices (for example whether a country fulfils the requirements to have a National Integrity System *à la* TI, rather than an attempt to identify the most serious problems in the local context and craft targeted solutions

Financing of Terrorism by the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (<http://www.coe.int/t/dghl/monitoring/moneyval>).

⁵ A non-exhaustive list of such standards and guides can be found at <http://www.u4.no/document/toolkits.cfm>

⁶ For excellent sources on the complexities, trade-offs and cross-country variations involved in political finance regulation, see Institute for Democracy and Electoral Assistance (2003).

to them). The lack of a proper policy framework in addition results in a tendency to elaborate holistic, extensive strategies designed to tackle everything at once.⁷ Invariably, neither the precise objectives of policies selected, nor their cost-benefit implications are elaborated. As a result, implementation is often formal rather than substantive.

5.2. The record in practice

While there is no reason to oppose the standards briefly outlined above, their impact in practice is virtually impossible to assess on the existing evidence available. This is partly because both organised crime and corruption suffer from huge problems of measurement. It is also partly because international conventions have not been in force for a sufficient period of time for such an assessment to be made. This paper does not attempt to provide a comprehensive assessment of the quality of international standards, but rather focuses on three key problems.

5.2.1. Too narrow an understanding of corruption

International organisations and the anti-corruption community invariably define corruption as “the misuse of public power for private gain”, or through similar formulations that regard corruption as simply the substitution by an individual of private for public interest. While such a definition may be consistent with acts of corruption it is intended to describe, it is firstly too *broad*, as it often includes acts such as fraud and theft. More importantly, in a different sense the definition is also too *narrow* because it excludes cases – and these may occur also in situations of infiltration of the state by organised crime – where agents involved in corruption do not make any private gain.

For example, one might expect that in the UK or the US, infiltration will tend to take the form of relatively isolated exchanges between organised criminals and rogue elements in particular government agencies or the police – and such exchanges may be reasonably well understood in terms of the classic definition of corruption – and may perhaps be tackled through simple law enforcement measures. However, in many developing countries, this understanding may be quite inadequate, especially as a starting point for thinking about anti-corruption policy. Petty corruption in many contexts – and in particular in circumstances of relative or absolute poverty, for example – may be seen as something an official is duty-bound to engage in to support his or her own family, grand corruption might be internalised by some actors as a means for preserving the position or influence of one’s clan. More generally, as Alum Bati argues in the case of developing countries, corruption often serves not only the purpose of serving private greed, but also, and sometimes primarily, to maintain corrupt governments in power through systemic patronage (Bati, ND). Moreover, crucially, one of the most important forms of such patronage is the distribution of government jobs at low wages, the use of positions to secure bribes, and often the handing over of bribes to superiors and their partial redistribution as unofficial wages (a pyramid system).

In such systems, while private interest is obviously important, officials have little choice but to participate in a corrupt system. The implementation of international standards in such a system – including for example the criminalisation of the acceptance of bribes – may not have the consequences that international organisations and donors wish, and might even be regarded as unjust.

A second, more general point is that the classic definition of corruption as misuse of public power for private gain tells us nothing about where the impetus for corruption comes from in a specific context – in particular whether it is initiated by the briber or bribed, whether it is an isolated exchange, or part of an established system rooted in widely-shared norms, and so on. Answering such questions is vital, however, if we are to work out how to tackle corruption that stems from organised crime. These points are developed further in section 6, which underlines the need for proper research and analysis, and

⁷ For an account of – among other things – the lack of proper sequencing and prioritization in the formulation of anti-corruption policies, and tension between strategy and targeted strategies, see Hussmann (2007).

suggests an approach to tackling corruption based on a better understanding of its nature in a particular context.

5.2.2. The bias towards criminal law/enforcement

In practice, the vast majority of efforts and resources in tackling the nexus between organised crime and corruption has gone into law enforcement efforts, reflecting both the inherent bias in international standards and – particularly in countries where the problems of organised crime and related corruption are serious – a tendency to be reacting to crises rather than tackling underlying causes. Levi and Maguire note that even in Europe, with the important exception of efforts to tackle money laundering, “[L]aw enforcement rather than prevention has continued to dominate the thinking and the practical responses of the police and other relevant agencies ...” (Levi and Maguire 2004, 397).⁸ A cursory analysis of efforts to tackle organised crime in the world regions cited as examples in section 4 suggests that assistance by international organisations largely takes the form of law enforcement-related initiatives, especially in the area of drug production and trafficking. Efforts to tackle opium production and trafficking in Afghanistan have concentrated almost entirely on measures to stamp out production. Concerning drug trafficking in Latin America and West Africa, it is difficult to find evidence of policies that go beyond efforts to strengthen law enforcement agencies, although an important exception may be support for local projects to encourage alternative crops to coca (UNODC 2008). In the area of human trafficking, UN activities are primarily focused on implementation of the UN Protocol to Prevent, Suppress and Punish Trafficking In Persons, Especially Women and Children, supplementing the Convention Against Transnational Organized Crime; the protocol requires the proper criminalisation of trafficking, and a number of other measures, such as protection of trafficked persons. The UN has, however, also conducted or supported important public awareness campaigns in a number of countries, acknowledging itself that “[v]ery few criminals are convicted and most victims are probably never identified or assisted.”⁹ Yet, little attention appears to have been paid to altering immigration policies in destination countries, despite the fact that, for example, the UN itself highlighted in 2004 the need for Europe to open its doors to migrants (Annan 2004).

Both in theory and practice, there is no reason to believe that criminal law enforcement is a sufficient instrument to address corruption or organised crime, except in contexts where the target problem is of a strictly limited nature and has *not* significantly infiltrated the state. In other contexts, there are strong reasons for believing that such solutions face key and possibly intractable problems – due to the problem of corruption itself. For example, the UNODC/World Bank report on Afghanistan notes in a key passage that while it is logical to focus law enforcement efforts on higher-level elements of drug trafficking networks, these are more difficult targets because of their political connections. On the other hand, focusing enforcement on lower-level actors risks failure because of systematic corruption in the enforcement itself (for example, the phenomenon noted in the same report of bribes paid by farmers in return for their crops being spared in the destruction of poppy plantations or because it may actually promote consolidation of the drug industry). As the report notes, “[t]here are no easy answers, but it is clear that ignoring corruption in the implementation of drug control policies, and not taking it into account in their design and deployment, will undermine the whole effort” (Buddenberg and Byrd 2006, 21).

Especially in contexts where the business activity of organised criminals is highly profitable and based on strong demand for illicit goods or services, there are increasingly loud voices suggesting that law enforcement may have counterproductive or even disastrous effects. Nowhere is the ineffectiveness of the criminal law enforcement approach more clear than in efforts to tackle the illegal production, trafficking, and distribution of drugs. In this case, the dominant approach has been, and remains, to engage in efforts to cut both demand and supply through criminalisation (prohibition of drugs). In practice, the effect of the “War on Drugs” does not appear to have been to reduce consumption,

⁸ For an example of how a move towards broader prevention seems to be interpreted by international organizations as merely embracing policies to prevent money laundering see Council of Europe (2003).

⁹ See more on human trafficking in UNODC (NDa; NDb).

although figures are unreliable, and trends are unclear. More importantly, many argue that the war has effectively created failed and failing states by encouraging systemic corruption and/or violence as the means for organised narco-criminals to maintain their operations, as well as having other negative side-effects (such as ruining the livelihoods of small farmers growing coca or opium).

In response to the growing number of voices declaring the war on drugs as a failure, in March 2009, The Economist magazine repeated its long-held argument for controlled and regulated legalisation of drugs as the least bad way to tackle the drugs problem – and reduce drug-related organised crime. The former presidents of Brazil, Mexico, and Colombia also declared that “[t]he war on drugs is a failure”, arguing among other things that

[t]he alarming power of the drug cartels is leading to a criminalization of politics and a politicization of crime. And the corruption of the judicial and political system is undermining the foundations of democracy in several Latin American countries (Wall Street Journal 2009).

The situation of Mexico, which, as section 4 described, has descended into open conflict between the security forces and drug cartels, is of particular concern. The war on the cartels declared by President Felipe Calderón has rested on the deployment of federal police forces and the army in the US border region, where local politicians and security forces have been systematically corrupted by the cartels over the past decade. Many observers fear that the result of the current war will only entrench corruption among federal forces as well – to the extent that this has not happened already. A November 2008 report by the US Joint Forces Command identified Mexico as one of two states (together with Pakistan) at risk of sudden collapse. In the case of Mexico, the report explicitly attributed the country’s crisis to the sustained assault on its government, politicians, police, and judicial infrastructure by criminal gangs and drug cartels (USJFC 2008).

Clearly, for many areas of organised crime, legalisation is not an acceptable or viable solution. The “illicit business model” of organised crime has a risk of suggesting that all that needs to be done to get rid of organised crime is to legalise the illegal activities in which organised criminals engage. This is clearly wrong: few would advocate the legalisation of coercive people trafficking, or the abolition of restrictions on waste disposal for example. The point of this section, however, is not to advocate legalisation of all illegal activities, but a broadening of the spectrum of policies that are considered to tackle problems that tend to be so complex and deep-rooted that a one-dimensional approach is likely doomed to failure. Legalisation, or partial legalisation, of certain activities may be one option or component, as is criminalisation and law enforcement. Other policies, and the policy process that should be engaged in order to select them are outlined in the following section.

6. Towards a different approach

This final section attempts to briefly outline the elements of a sounder approach to developing policies to tackle organised crime and corruption and the nexus between them. The arguments and approach presented in this section are informed especially by policy rules formulated by two Nobel Prize-winning economists, Jan Tinbergen and Robert Mullen. The Tinbergen Rule states that achieving a multiple number of independent policy targets requires an equal number of policy instruments; if the number of policy instruments is less than the number of targets, policies will unavoidably face trade-offs and side-effects, and it will be impossible to achieve all targets. The Mullen Rule added to this rule by stating that each policy instrument should be assigned to a policy target on which it has the greatest relative effect.

These rules contain important lessons for tackling organised crime and corruption. In particular, they highlight the need to break down the problems of organised crime and corruption into more specific components (or targets of policy), identify measures (policies) that may be expected to have the desired effect on those targets, and to be sensitive to the side-effects (whether desirable or undesirable) of these policies.

The approach advocated here should therefore be based on the following components:

- Proper research and analysis to establish a proper understanding of organised crime and corruption in the specific context for which policies are to be developed, and in particular attempts to identify the targets of policy by i) **breaking the problem down into its specific components**, and ii) **identifying the causes of these specific components**. While gaining precise data on organised crime is obviously impossible, research can yield useful and more-or-less accurate hypotheses about such crime, its actors, and their motivations. At the very least, policy should be based on clear and explicit assumptions about the loci, nature, and causes of organised crime in the specific context.
- On the basis of the analysis made, policy instruments should be selected to meet policy targets (objectives) that are sufficiently specific and on which they may be expected to have the desired effect in the local context **without involving excessive costs or undesirable side-effects**.
- Recognition – given the division of the big picture into smaller problems – should be given that the measures advocated by conventional wisdom are insufficient alone in many (if not most) contexts to tackle either corruption or organised crime effectively, and that there is a **need to embrace a wider range of measures, including innovative approaches (“thinking out of the box”)**.

The following subsections elaborate briefly on this approach, focusing on how to tackle the nexus of organised crime and corruption – in other words, the corruption that constitutes the links between organised crime and the state. Section 6.1 underlines the importance of breaking down the overall problem into its specific components, identifies ways of identifying appropriate policies to address the specific components, and underlines the need to pay attention to possible side-effects of well-intentioned policies.

6.1. Research, analysis and proper policy rules

This paper argues that a proper understanding of corruption tends to be blocked by the definitions that dominate current discourse, and that there is a need to reach a deeper understanding of the dynamics of corruption in specific contexts. This may be done in a number of ways, including various types of surveys (in which case their limits must be taken into account), general reports on corruption and/or anti-corruption policy, reports focused on particular problems (for example corruption in customs) and so on. It should be noted that often a better understanding of corruption may be reached if a study or piece of research does not focus on ‘corruption’, but on more specific variables.

The absence of proper research and analysis is by no means confined to the problem of corruption, but is at least as big a problem for organised crime policy. A recent example is the emergence of the fact that in the UK, no cost-benefit analysis has ever been conducted by the government to compare different options for tackling the problem of drugs (TDPF 2009). Levi and Maguire argue that “[R]elative to the confident claims that are made about it [organised crime], little is known about ‘its’ operation in practice in many European (and for that matter non-European) countries” (Levi and Maguire 2004, 397-8). The authors introduce a number of key distinctions that should guide proper research into the phenomenon – for example whether our focus is on prevention of organised crime **acts** or on prevention of the development of organised groups (**actors**), and the need to be aware of big differences between the threat posed by different types of organised crime groups, even if they all

satisfy the same definition. They underline the need – even from a narrow law enforcement perspective – to employ more strategic analysis (Levi and Maguire 2004, 409).¹⁰

6.1.1. Breaking down the problems

It is of prime importance to break down the problems that are faced in a particular country or context into as specific components as possible, if measures are to be identified and targeted effectively. To this end, proper research and analysis should be conducted in order to achieve two things: identify the specific components of the organised crime-corruption nexus, and identify, or at least hypothesise, the causal factors behind each component. For example, if the general problem that is faced is a burgeoning drug trafficking business that seeks protection through corruption of state officials, then the types of questions research would attempt to answer might – in a very general sense – include the following:

1. What exactly is the sequence of actions that constitute a particular trafficking operation (from securing drugs from the source country to the export to the country of final destination)?
2. Which state officials or levels of the state administration/public sector need to be corrupted in order to make such an operation secure for traffickers?
3. Which specific levels of the state administration/public are involved in links with organised crime according to the evidence or testimony that is available or can be obtained?
4. What forms do the links between officials/politicians and organised crime take – for example, are links based on individual bribery of particular officials, or financing of political parties and election campaigns, to what extent do state actors control organised crime and *vice versa*, etc.?
5. For each of the actors that are involved in organised crime and/or related corruption, what are the exact motivations or reasons for their actions?

The detailed answers to each of these questions should generate specific components of the problems of drug trafficking and corruption related to it, for which specific policies may then be elaborated (see section 6.1.2 below).

6.1.2. Identifying appropriate measures/policies

The second implication of the two rules is the need to identify measures or policies that will have the desired effect on the component or cause that has been identified, without causing unacceptable side-effects, such as the imposition of disproportionate costs. Two possible approaches are mentioned here, one based on investigating general correlations, and another based on closer examination of the target problem in its specific context.

Identifying correlations

One example of a general type of research aimed at identifying areas at which policies to tackle corruption and/or organised crime is the work of Buscaglia and van Dijk, who attempt to identify correlations between aspects of countries' socioeconomic, administrative, and political systems on the one hand, and corruption and organised crime on the other, as measured by composite indices constructed from a complex of crime statistics, surveys, and other data. The results of such research may yield useful inputs to policy – for example strong correlations between organised crime and levels of poverty (positive correlation), police protection of property rights (negative), and the independence of the judiciary (negative), and the various factors correlated with low-level and high-level corruption would appear to highlight phenomena that could be targeted (for example policies to improve

¹⁰ They highlight, for example, the Eckblom '5 I's' model, under which all the stages of a particular crime and the causal preconditions necessary for each of these stages to occur are mapped out, enabling better policy to be defined to make such crimes more difficult.

protection of property rights or to increase the independence of the judiciary) in the hope that this will have a knock on causative impact on levels of corruption or organised crime. Likewise, the findings of the authors that procedural complexity in the courts is correlated with judicial corruption as measured according to survey results may be a useful input into policies to simplify judicial proceedings.

However, care must be taken in interpretation of the results of such research. In particular, the extent to which the exact variables used to construct the composite indices of corruption, organised crime and the variables analysed to look for correlations with these indices are accurate measures of the phenomena they purport to be is open to debate, especially if such indices or indicators are based on perceptions. Moreover, even if the specific variables used are adequate proxies for the phenomena, correlations between them can not be assumed to mean causality. Nevertheless, broad research of this kind may provide useful pointers as to where policies should be directed.

Anti-corruption measures based on detailed analysis of specific contexts

A different approach is to base policies on specific research into specific loci of corruption or organised crime. Taking the example of corruption in a particular institution Mark Philp has suggested a framework for identifying measures to control corruption that would attempt to establish the following:

1. Where the impetus for corruption is coming from, and in particular to what extent it is led/initiated by public officials (the bribed) and to what extent by third parties (bribers).
2. The extent to which corruption stems from individual acts taken as a response to individual incentives, and the extent to which it is rooted in group mores where “alternative norms and commitments make corruption an accepted component of people’s lives” (Philp in S. Kotkin and A .Sajo 2002, 69-79).

This suggested approach yields the following type of policy matrix (see Table 2), which outlines possible responses (anti-corruption measures) depending on the answers to the two questions.

Table 2: Measures to control corruption

		Corruption based on	
		Individual incentives	Group mores/culture
Corruption instigated by	Public officials	<p>Box 1</p> <p><u>Type of corruption:</u> soliciting payments</p> <p><u>Solutions aimed at officials:</u> transparency (including audit, formal controls, identification of officials responsible for particular decisions), penalties and education</p> <p><u>Solutions aimed at users/public (potential bribers):</u> multiplying options (e.g. choice of offices to submit applications), access to complaints process</p>	<p>Box 2</p> <p><u>Type of corruption:</u> ‘taxation’ (systematic solicitation of payments on the basis of established ‘tariffs’), extortion</p> <p><u>Solutions aimed at officials:</u> Encourage intra-state conflict between reformers and corrupt officials (e.g. by identifying and publicising ‘islands of integrity’), targeted ethics drives, outsourcing recruitment processes, reducing unjustifiable discretion at the interface with users</p> <p><u>Solutions aimed at users/public (potential bribers):</u> Reformers seek public legitimacy, public education, increase public expectations, ensure access of users/public to independent recourse against official decisions</p>
	Bribers	<p>Box 3</p> <p><u>Type of corruption:</u> bribery, backhanders</p> <p><u>Solutions aimed at officials:</u> code of ethics, internal accountability and transparency</p> <p><u>Solutions aimed at users/public (potential bribers):</u> clear and distinct rules and penalties</p>	<p>Box 4</p> <p><u>Type of corruption:</u> protection rackets, intimidation/extortion of public officials, expropriation of public office by private groups</p> <p><u>Solutions aimed at officials:</u> state-enforced protection of officials, limiting discretion at the interface with potential bribers, insulation of decision-making process</p> <p><u>Solutions aimed at users/public (potential bribers):</u> special police powers, infiltration, aim to weaken and divide group</p>

(Table adapted and reproduced with permission of the author [Philp in Kotkin, S and Sajo, A 2002, 72])

While there is insufficient space to elaborate in detail on this approach, it is important to note some of its implications when compared to approaches based on the broad implementation of best practices. For example, Box 1 basically describes a scenario where public officials are those who are instigating corruption (demanding bribes), but such cases are relatively isolated cases of the opportunistic pursuit of self-interest. In such a situation, one effective measure to tackle corruption may be to increase transparency, including by *making publicly available the identities of the officials responsible for particular decisions*. In Box 4, by contrast, corruption is primarily instigated by groups outside the state (for example organised crime groups) and is likely to merge into practices such as extortion. In such a situation it may be necessary to insulate the decision-making process by *preventing such groups from knowing where decisions are actually being made* in a particular case. Such a measure would not find any support in any of the best practices advocated by the anti-corruption community.

We have already seen that corruption as an activity that facilitates organised crime – or from a different perspective, persistent organised crime is likely to be impossible without corruption to facilitate it. But those that hold political or administrative power may also be the cause of organised crime themselves. In short, the relationships between non-state organised criminals and state actors may take many forms. Frameworks such as the one outlined above – combined with the different forms of infiltration of the state by organised crime identified in section 3 constitute a better basis for identifying exactly what forms of corruption need to be tackled.

With respect to organised crime, a similar approach can be developed based on answers to questions such as those listed in section 6.1.1 above. In the scenario and corresponding questions presented there, for example, the answer to question four might be that a key link between organised crime and the state is through the financing of electoral campaigns of political parties or candidates – a development that appeared to be occurring in Mexico in the 1990s in response to attempts to break the corruption of law enforcement bodies by organised criminal groups. In this case, policies might be developed to reform the system of political financing, for example by reducing the cost of elections, introducing or increasing state financing of political parties, and other measures to reduce the likelihood of organised crime (or other corrupt interests) gaining undue influence over elected parties and politicians (IDEA 2003).

6.1.3. Undesirable side-effects

A clear implication of the approach to policy outlined above – and a direct implication of the Tinbergen rule – is the need to take into account possible side-effects when identifying and preparing the implementation of particular policies. In general, as Levi and Maguire point out, “[d]evising any strategy to ‘tackle organised crime’ runs a substantial risk of unintended consequences” (Levi and Maguire 2004, 401). One example is an increase in violence, at least in the short run (as is currently seen in Mexico). There are, however, many more examples, and these are likely to multiply when there are strong links between organised crime and the state (i.e. corruption). One is the low-level corruption that flourished in response to efforts to suppress opium growing in Afghanistan (see section 4.1); in the same context, another is the fact that crop eradication tends to raise opium prices, paradoxically making poppy-growing more attractive to farmers (Asia Times Online, 2006).

More generally, in a patronage system which is corrupt from the top down, officials have little option for survival without taking bribes, and/or citizens are forced to bribe in order to obtain basic public services, the strengthening of law enforcement to fight corruption (for example through ensuring the existence of a body or bodies specialised in tackling corruption through law enforcement, an obligation under the UNCAC) may simply give the incumbent regime stronger tools to persecute political enemies. A similar comment may be made concerning frameworks for preventing money laundering, which in a country troubled by systemic corruption are unlikely to prevent money laundering that matters, but may well be used to block transactions involving, for example, opposition political parties. Or, as in West Africa, if poverty is widespread and the informal economy is very large, local citizens may be dependent on small-scale smuggling for survival (as appears to be common in West Africa), creating natural resistance among ordinary citizens to efforts to stamp out such activity in the name of fighting organised crime. Last but not least, as already indicated in section 5.2.2, law enforcement or military efforts to eliminate organised crime networks may both force them to relocate elsewhere (the ‘balloon’ effect), but also undermine institutions at the same time. As Briscoe concludes on Latin America,

[A]ttempts to impose a militarized conception of security in an effort to seal borders or eliminate criminal networks ... have tended in Colombia, Mexico and Central America to accentuate the sort of territorial displacement and institutional vulnerability which, over the long-term, serve to weaken central governments’ claims to genuine sovereignty over the borderlands. In the absence of any substantial effort to consolidate the state’s non-security presence in these areas, these policies may purport to eliminate local strongmen and armed factions only to enable them to re-emerge once the military offensive loses steam, and to broker the next stage in the expansion of lucrative transborder networks (Briscoe 2008, 9).

In addition to being sensitive to the possible side effects of well-intentioned policies, it should also be standard procedure to conduct an analysis of the predicted costs and benefits of particular policy measures. Some benefits may be impossible to calculate in monetary terms – for example, measures to encourage and monitor ethical conduct of elected officials. However, any policy should at least be clearly costed before approval and implementation.

6.2. A wider range of policies: Thinking out of the box

This final subsection aims to underline the importance of going beyond the approaches that currently dominate policy. It is clear from the material presented in this paper that it is necessary in tackling organised crime for policy-makers to go significantly beyond the approaches that currently dominate policy (criminal law and its enforcement). The range of policies that might be brought to bear on the problem of organised crime is very wide. Wright lists four main areas of policy (Wright 2006, 185-6):

- Social policy: identifying and dealing with the social context (such as poverty) and key relationships (e.g. family ties or ethnic loyalties) which are important to the growth of particular criminal groups. The important role that high unemployment (nearing 30 percent) plays in underpinning the operation of mafia in Naples is an example.
- Anti-corruption policy to minimise the effects of organised crime on the political, administrative and judicial domain. Such policies include a very wide range of measures including all those mentioned in section 5.1.
- Economic policy to regulate markets in such a way as to minimise the incentives or opportunities for organised crime. Anti-money laundering policy is one example, but another might be regulated decriminalisation or legalisation of drugs.
- Law enforcement strategies, including national law enforcement, bilateral and multilateral cooperation between states, including under the auspices of international conventions.

It is clear from this list alone that law enforcement is only one part of a mosaic of possible policies. Levi and Maguire go further, identifying three ‘non-traditional’ – that is, non law enforcement – approaches (Levi and Maguire 2004, 411). These are classified under the following headings: community approaches; regulatory, disruption and non-justice system approaches; and private sector involvement (see Table 3).

Table 3: Non-traditional approaches to organised crime prevention

Community approaches	1. Community crime prevention
	2. Passive citizen participation: giving information about harms and risks, hotlines for reporting
	3. Active citizen participation: civic action groups
Regulatory, disruption and non-justice system approaches	4. Regulatory policies, programmes and agencies (domestic and foreign, including the Council of Europe/EU/FATF/IMF/OECD/World Bank)
	5. Faster customs and other regulatory treatment (eg. Anti-laundering measures, container and customs importation such as US C-TPAT) for firms and countries that have instituted approved internal compliance programmes
	6. Routine and suspicious activity reports as investigative triggers for illegal drugs precursors and money laundering
	7. Tax and policy programmes
	8. Civil injunctions and other sanctions (RICO, contract vetting)
	9. Military interventions
	10. Security and secret intelligence services
	11. Foreign policy and aid programmes (certification, Most Favoured Nation, EU accession)
Private sector involvement	12. Individual corporate responses
	13. Professional and industry associations
	14. Special private sector committees
	15. Anti-ID fraud and money laundering software
	16. Private policing and forensic accounting

(Levi and Maguire 2004, 411)

The need to employ broader policy instruments also includes the need to place more emphasis on solutions to establish functioning institutions of governance, as opposed to a narrow focus on law enforcement. An example of policies that go beyond traditional law enforcement approaches are policies to tackle the corruption through public financing of political parties and electoral candidates by organised criminals, already mentioned in section 6.1.2. An example of such an approach is the electoral reform passed in Mexico in 1996 and advocated very strongly by then-President Ernesto Zedillo, which brought in legislation that – in theory at least – ensured that public financing of political parties would take precedence over private donations. While there is little information available on the impact of the reform, it shows an example of a response designed to address a specific problem in a specific context – namely, fears in the political elite concerning the infiltration of democratic politics by organised crime, and also specifically to Mexico, the need to separate the traditional incumbent political party (the PRI) from its long-standing unofficial financing by the state (Curzio in Bailey and Godson 2001, chapter 4).

Regarding efforts to address the social conditions that facilitate organised crime, a summary of a 2007 FRIDE/UN organised seminar on the impact of organised crime on the state stated that

[p]overty and inequality create incentives for people to seek in illegal activities the social advancement they cannot find in legal activities. They also open the space for criminals to create power strongholds and patronage relations with communities while providing the basic services the government is unable to provide (FRIDE 2007, 6).

One radical example of a successful policy to tackle the socioeconomic roots of organised crime is the state-financed National System of Youth & Children's Orchestras of Venezuela, known as "El Sistema" (The System). The programme was designed by Jose Antonio Abreu in 1975 to give children from disadvantaged backgrounds access to musical education to provide an alternative to a life of poverty and crime. Costing around USD 80 million per year, most of which is paid by the Venezuelan Government, the programme had around 240,000 participants in 2008 (80-90 percent from the slums of Caracas) and 800,000 alumni, and had created one of the world's most famous orchestras (CBS News 2008; Moge, n.d.). In the context of this article, it is not difficult to see that such programmes may be at least as effective in removing the conditions for organised crime than the solutions currently in fashion.

Programmes such as "El Sistema" might be seen, *inter alia*, as one part of an effective approach to the prevention of organised crime. They also underline the need for a long-term approach to a problem that is deep-rooted and multifaceted.

7. Conclusions: Lessons for policymakers and bilateral donors

This paper has tried to stress the complexity of the problems of organised crime, corruption, and the connections (nexus) between the two. This complexity underlines the need for strategies to tackle this nexus that are based on a rational policy approach founded on primary research and analysis, which tend not to be employed in the current context of international standards and assistance. The paper also suggested basic components of such an approach. This may be seen as a first lesson recommended to bilateral donors involved in, or considering, assistance in tackling these problems. This is of particular importance both to complement the considerable body of international standards and best practices that exists, and more broadly, to select and implement well-targeted measures in a manner appropriate to the local context, rather than simply attempting to implement a plethora of international standards with no prioritisation or analysis.

The other major lesson is that it is vital for donors to be aware that the way in which organised crime has infiltrated the state clearly has fundamental implications for any assistance activities that depend on interaction or cooperation with institutions or officials that have been co-opted by – or in the worst

scenario, themselves control – organised crime. Helping to tackle organised crime, and particularly the corruption that is linked to it, in contexts where there are not only issues of sovereignty but counterpart institutions may be compromised is a challenge that requires a great deal of care and sensitivity to the local context. Here, it is useful to distinguish between two forms of international intervention: international mechanisms under which pressure can legitimately be brought to bear on a particular country, and in-country assistance:

- International mechanisms include obligations under international anti-corruption conventions. Of particular importance here may be obligations of countries to set up institutions and legal frameworks to combat money laundering – including obligations of financial institutions to pay particular attention to “politically exposed persons”. If properly implemented, this is an example of how international mechanisms could have an impact on high-level corruption, whether linked to organised crime or not.
- Regarding in-country assistance, it is clear that the type of assistance that will be feasible and effective will depend heavily on the way in which organised crime has infiltrated the state – in other words, how widespread and serious corruption is. Where such infiltration is deep, participants in a seminar held in 2007 by FRIDE and the UN on the impact of organised crime on the state for example suggested that assistance may best be directed at sponsoring better research (for example the training of NGOs or journalists in monitoring political party or election campaign finance on the basis of an objective and non-partisan methodology), dialogue initiatives (rather than naming and shaming or imposing conditionality), new partnerships with a wide range of partners (including justice sector professionals and journalists), and work with political parties and electoral assistance (FRIDE 2007, 9-11).

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Abstract

Corruption and organised crime are of great concern to the international community: while the first is regarded as one of the greatest barriers to development, the second is seen as a key threat to international security and stability. In this context, corruption is best understood as the way in which organised crime infiltrates the state: corruption is one of the primary enabling activities of organised crime, it makes possible and/or facilitate the conduct of this type of criminal activities.

This U4 Issue argues that understanding the connections between both phenomena requires a deeper analysis of the relationships between organised criminals and public officials at different levels of the state. First, international standards and conventional wisdom tend to embrace a limited range of the possible policies that may be employed to tackle organised crime and the corruption, and are heavily oriented towards criminal law and its enforcement. Second, policies to tackle both problems are usually developed without applying sound principles of policy-making. The author argues for the development of policies based on proper analysis of the specific context, breaking down the problem into clear components, identifying their causes, and selecting specific and appropriate measures to address each component or causal factor. In particular, the author suggests there is a pressing need to correct the current bias towards criminal law enforcement solutions.