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# ABBREVIATIONS AND ACRONYMS

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## CHAPTER 1: ZIMBABWE

AG	Auditor General
CSC	Cold Storage Commission
DRC	Democratic Republic of the Congo
MDM	Movement for Democratic Change
MMCZ	Minerals Marketing Corporation of Zimbabwe
NOCZIM	National Oil Company of Zimbabwe
NSSA	National Social Security Authority
Palermo Convention	United Nations Convention Against Transnational Organised Crime
PTC	Posts and Telecommunications Corporation
TIPs	Temporary Import Permits
ZANU (PF)	Zimbabwe African National Union (Patriotic Front)
ZDF	Zimbabwe Defence Force
ZDI	Zimbabwe Defence Industries
ZMDC	Zimbabwe Mining Development Corporation

## CHAPTER 2: BOTSWANA

CBC	Commonwealth Business Council
CTB	Central Tender Board
DCEC	Directorate on Corruption and Economic Crime
FAP	Financial Assistance Programme
ICT	Information communication technology
SADC	Southern African Development Community

## CHAPTER 3: SOUTH AFRICA

AFF	advance fee fraud
DCS	Department of Correctional Services
DRC	Democratic Republic of the Congo
NGO	non-governmental organisation
SAPS	South African Police Service
SARS	South African Revenue Service
TRC	Truth and Reconciliation Commission

## PREFACE

**Figure 1: The member states of SADC**



*Note: Seychelles withdrew from SADC membership in August 2003.*

Organised crime, particularly transnational organised crime, emerged in Southern Africa as a distinct phenomenon considerably later than in some other parts of the world. While organised criminal groups out to make a profit have always been with us, it was only in the early 1990s that authorities in the region considered their expanding cross-border activities and increased sophistication as threats that needed to be countered through special initiatives. It became apparent that in the 1970s and 1980s, while governments were focusing on post-independence transformation, civil conflicts, structural adjustment programmes, political strife, and liberation struggles, numerous criminal networks managed to entrench themselves and develop significant illicit markets across the Southern African Development Community (SADC) region. In 1995 police chiefs in Southern Africa met to discuss escalating cross-border crime in the region, among others things, and decided to launch a regional initiative to combat it.

By now there is a broad consensus within the member states of SADC that organised crime is a serious threat that needs to be countered on both national and regional levels. Yet relatively little is known about organised crime in the region. There is no real clarity about what the term 'organised crime' actually means. For example, what is the distinction, if any, between commercial crime, organised crime, and white-collar crime, if a number of people are involved in perpetrating those crimes on an organised and sustained basis for profit?

Our understanding of the organised criminal groups active in Southern Africa, and the criminal markets in which they operate, remains very basic. The perception of both experts and laypersons about organised crime is still largely determined by popular movies and literature on the subject of Mafias. More information needs to be gathered on organised criminal groups, the markets that they supply, and their impact. Researchers and journalists have a responsibility to contribute to such an exercise, and law enforcement authorities should be less coy about making information available. The task of combating organised crime effectively is much more difficult if the general population is ignorant about its nature and the threat it poses.

Against this background, the Organised Crime and Corruption Programme of the Institute for Security Studies (ISS) undertook a two-year study into the nature and extent of organised crime in the SADC region. In addition, the project sought to gain some insight into the penetration of state structures and regional business activities by organised criminal networks. This latter objective was an ambitious one, which could only be partially achieved. Attempts to focus on the nature and extent of the penetration of state and business sectors soon brought home the realisation that without first obtaining significantly more general information about the organised criminal groups that might be involved, and their activities, it would be fruitless to attempt an in-depth focus on the penetration aspect.

Commissioned researchers from various SADC countries provided research reports, some of which now form the basis of volumes I and II of this monograph. Two volumes were necessary because we attempted to cover as many SADC countries as possible. It was not possible to include every country in the sub-region and some gaps still need to be filled. This volume therefore contains reports on Zimbabwe, Botswana and South Africa, while volume I relates to Namibia, Mozambique, Tanzania and Swaziland. Some of the chapters in the two monographs are based on the papers presented by their authors at an ISS regional seminar in Pretoria on 'Governance and Organised Crime and Corruption in the SADC region', in April 2002.

The reader therefore needs to bear in mind that a considerable period of time has elapsed since the research reports were compiled. This is important because there have been developments in some of the countries during the past two years: some for the better and some for the worse. For example, the chapter on Mozambique provides a critical assessment of a criminal justice system riddled by corruption and inaction. Encouraging developments since the chapter was written suggest that Mozambican authorities are acting with greater determination than in the past to strengthen and enhance trust in the system. The most dramatic example was the widely publicised trial of six defendants for the murder of the well-known journalist Carlos Cardoso, which commenced in November 2002. Key figures linked to organised crime in Mozambique were convicted. The government has also been more assertive about its determination to tackle organised crime. The most recent example came from the Minister of State Administration who, in June 2003, reaffirmed his government's determination to step up its fight against organised crime and money laundering.

The contributors to the two volumes relied on a very broad and general description of organised crime, namely the definition provided in the UN Convention Against Transnational Organised Crime (the Palermo Convention). In essence the Convention criminalises the conduct of those who, as part of a group of three or more persons, commit serious criminal offences for profit over a prolonged period of time.

The research project that produced the two monographs was made possible through generous financial support provided by the Rockefeller Brothers Fund in New York and the European Union. The ISS is grateful for their support. In addition, the Max Planck Institute for Foreign and International Criminal Law in Freiburg, Germany, kindly provided a research stipend to undertake some research into organised crime in the SADC region, which contributed to the first chapter of this monograph.

The commissioned researchers from various SADC countries were prepared to undertake the research not because the ISS offered them market related professional fees—it was not in a position to do so—but because they had a real interest in the subject matter. The ISS hopes it will be able to rely on them again in future because they have built up an expertise on organised crime in their country, which few others have. Another newly qualified 'expert' on organised crime must be the editor of the various research papers, Fiona Adams. We are grateful for her support.

Finally, a note on the sources: some of the research contained in Chapter 3 of this volume, and in some of the other chapters in both volumes of this monograph, is based on interviews with police officers, businessmen, prisoners, etc. The nature of research into organised crime is such that those who volunteer information (and there are not many) frequently insist on anonymity. Their wishes have to be respected even though the failure to mention their names could detract from the value of citing the reference.

**Peter Gastrow**

**Cape Town Director: Institute for Security Studies**

**July 2003**

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## ABOUT THE AUTHORS

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**Charles Goredema** is a Senior Research Fellow with the Institute for Security Studies in Cape Town where he specialises in research into money laundering, organised crime and corruption in southern Africa. He holds qualifications in law from the Universities of Zimbabwe and London and practiced law as a prosecutor in the Justice Ministry in Zimbabwe in 1983 before embarking on an academic career in 1987. He joined the Institute in August 2000 after teaching criminal justice law at the Universities of Zimbabwe, Cape Town and the Western Cape. He has published extensively in the spheres of criminal justice and human rights law.

**Gideon Nkala** is an investigative journalist who writes for the weekly paper, *MMEGI*, published in Gaborone, Botswana. He is a former teacher and is currently a Masters student in Library and Information Studies at the University of Botswana. After working as a freelance journalist he became a reporter for Botswana's main weekly newspaper. In 2000 he was nominated as the environmental journalist of the year and was the Media Institute of Southern Africa Botswana journalist of the year.

**Jenni Irish** is the co-director of Injobo Nebandla, a firm of research consultants based in Durban, South Africa. She has undertaken research into, among others, the future regulation of the private security industry, the extent and nature of fraudulent hijackings, community attitudes to guns and violence in KwaMashu, Durban, and organised crime in South Africa. She has also been the Regional Co-ordinator of the KwaZulu-Natal Human Rights Committee (HRC) and is presently the Vice Chairperson of the statutory council established for the Private Security Industry Regulatory Authority and a member of the Durban Safer City Research Action Group.

**Kevin Qhobosheane** is the co-director of Injobo Nebandla with Jenni Irish. He served in the ANC in different leadership capacities, including as a member of the ANC Youth League National Executive Committee and as National Secretary for Information and Propaganda in the National Youth Secretariat. He also served in various command capacities in Mkhonto we Sizwe, both inside and outside South Africa, and was integrated into the SAPS after 1994 where he was a Senior Superintendent in the Central Intelligence Service. He was Deputy Provincial Head of the KwaZulu-Natal Department of Information and Security and between 1999 and 2001 he worked as an advisor to the Deputy Minister of Defence.

## EXECUTIVE SUMMARY

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Enhancing the information base on organised crime in Southern African countries is a prerequisite for a better understanding of the phenomenon and for more effective policy and operational decisions to both prevent and counter it. To contribute towards that objective this monograph provides studies on organised criminal groups and their activities in seven Southern African states, of which three, namely Zimbabwe, Botswana and South Africa, are covered in this volume. The first volume, which is published simultaneously, contains chapters on Namibia, Mozambique, Tanzania, and Swaziland.

The country studies illustrate how organised criminal networks have succeeded in establishing a common criminal market for illicit goods that covers the entire Southern African sub-region. In the legitimate business world, entrepreneurial spirit and the development or exploitation of markets are crucial to increased profits. The same applies to the illicit economy. However, organised crime constitutes a serious threat to societies, among other reasons because it corrodes good governance, undermines transparent economic activities and is closely associated with corruption and violence. Some of the country studies in the two volumes provide examples of how organised criminal networks have colluded with, or penetrated, state structures. In developing countries with under-resourced and weak governments, this can have consequences that further exacerbate poverty and distrust for democratic government.

In Chapter 1 of this volume, Charles Goredema provides an in-depth report on organised crime and the penetration of state and business structures in Zimbabwe. The chapter illustrates how the expansion of organised crime was influenced by the concomitant rapid deterioration of the Zimbabwean economy. In addition to examining the main kinds of organised criminal activities such as armed robberies, theft of motor vehicles, extortion rackets and the smuggling of diamonds and gold, the chapter also considers the opportunities for organised crime that arose with the exploitation of resources in the Democratic Republic of Congo by the Zimbabwean government following its intervention in the conflict in that country. It also surveys the criminal activities that accompanied and became part of the invasion of land and corporate institutions from the first quarter of 2000.

An important part of the chapter focuses on the penetration of organised crime into both the formal business sector and government structures. Zimbabwe is a state undergoing a deep economic and social transition and therefore provides opportunities for organised criminal groups, including senior bureaucrats and entrepreneurs from the private sector, to exploit weaknesses and opportunities.

Joint venture partnerships, involving participation of state functionaries in private enterprise and often involving partners with strong foreign links are not uncommon in Zimbabwe. Included among some of the partners have been criminals and black market experts who are well versed in bid rigging or in using state bureaucrats to protect them from competitive tender processes. The chapter provides a number of case studies to reinforce the some of the propositions made by the author and to illustrate instances of money laundering.

Chapter 2 focuses on Botswana. Despite its relatively stable democracy and an effective law enforcement agency, Botswana has experienced an increase in organised crime—but is the country that is probably the best equipped to contain it effectively. Gideon Nkala briefly sketches some of the main organised criminal activities in the country, such as the theft of motor vehicles, drug trafficking and illegal immigration. The spillover of organised crime from neighbouring South Africa is significant. The destination of trafficked drugs other than cannabis tends to be the lucrative criminal market of South Africa, making Botswana a transit country for drug trafficking as well as for other illicitly obtained goods such as diamonds. Its relatively small and well-policed population provides only limited opportunities for the development of a lucrative criminal market. Organised criminal groups are the first to realise this and many have therefore focused more on neighbouring countries in which the risk is lower and the returns higher.

It is common cause that organised criminal activities in South Africa have burgeoned over the past ten years and that a notable element has been the growing impact by groups with international links. In Chapter 3, Jenni Irish and Kevin Qhobosheane focus on the wide range of organised criminal groups that are active in South Africa, and the many criminal activities in which they engage. The growing significance of organised groups or networks with international links is illustrated. The CIA and FBI description of South Africa as “an important centre for international criminal activity” may sound somewhat dramatic, but Chapter 3 provides some of the reasons why such conclusions are drawn.

The penetration of state structures in South Africa has clearly succeeded at lower levels of state departments such as the South African Police Service and the

Department of Home Affairs, which deal with visas, passports and refugees. The more senior level bureaucrats and politicians, while certainly not immune to linking up with organised criminal groups, have thus far not evidenced the same propensity to become involved as has been experienced in many other developing countries. However, public perceptions of corruption in government remain high and there have been some scandals involving senior officials and politicians.

The country studies in both volumes of the monograph illustrate how organised criminal groups have turned the entire Southern African sub-region into their field of operations, with South Africa providing the most lucrative component. Borders are ignored and a virtual free flow of illicit goods occurs. The implications for combating organised crime are that closer co-operation between law enforcement agencies in the region is essential, legislation should be harmonised, extradition treaties and mutual legal assistance agreements between states need to be concluded and joint regional initiatives against organised criminal groups need to be undertaken. There has been some progress in these areas but the serious resource constraints that most countries experience makes it a very slow and fragile process.

Corruption of senior officials and politicians is the Achilles heel of poor and developing countries. It is a crime that is largely invisible but its consequences can be far reaching. Sophisticated and wealthy organised criminal networks know about this. More information is required to find out who those groups are, how they operate, why they are successful and how their activities can be curtailed. It is hoped that this monograph will make a contribution towards achieving these objectives.





Source:

University of Texas at Austin, UT Library Online, <[www.lib.utexas.edu/maps/africazimbabwe\\_pol\\_2002.jpg](http://www.lib.utexas.edu/maps/africazimbabwe_pol_2002.jpg)>.

Accessed 27 May 2003.

**CHAPTER 1**  
**ZIMBABWE**  
Charles Goredema

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**PART I: ORGANISED CRIME IN ZIMBABWE**

**Introduction**

In contemporary Zimbabwe a significant amount of organised crime draws on linkages between the formal and informal sectors. To an increasing extent it is becoming institutionally embedded within the legal economy and committed by individuals, or by small groups with no relationship to traditional or emergent hierarchical syndicates. Contrary to bureaucratic or hierarchical perspectives that have tended to hold sway in the United States and Eastern Europe, organised crime in Zimbabwe is dominated by autonomous entrepreneurs and small transient groups that are not segregated from mainstream economic society. Trends emerging from the interaction between organised crime and the formal political, economic and law enforcement sectors will therefore be outlined.

***Country profile***

Zimbabwe attained independence in 1980 following decades of white minority rule. The country is theoretically a constitutional democracy, with its parliament and government largely dominated by both the Zimbabwe African National Union (Patriotic Front) (ZANU(PF)), and the current president, Robert Mugabe, since independence. After proclaiming its socialist orientation in the 1980s, the government has erratically pursued economic reforms since 1990. However, economic conditions have failed to improve because of sustained mismanagement and the limited implementation of agreed policy. The legislative elections in June 2000 produced a parliament nearly half of whose elected membership belongs to the opposition Movement for Democratic Change (MDM).

Two decades of political dominance by the ruling party over other sectors and structures have resulted in a state characterised by the fusion of the economic and political domains, in which political power is regarded as the key to achievements in all other spheres. In consequence, politicians and their associates have the capacity to exert much influence in most aspects of economic activity.

### ***Resources and infrastructure: population***

Zimbabwe's population was approximately 12.6 million in mid-2000 and is projected to rise to 16.4 million by 2015. The urban population was estimated at 34.6% in 1999, up from under 20% in the 1970s, and has been growing at over 5% per year in the 1980s and 1990s. This is much faster than overall population growth and indicates sustained migration from the rural areas. The largest metropolis, Harare, combined with nearby Chitungwiza town, now probably has a population of over of two million, although official data put it lower. The population density of the country is about 30 people per km<sup>2</sup>.

Police strength at the end of 1999 was 19,000. Measured against a population of 11 342 521, the ratio of police to population at that time was 1:596. The ratios in neighbouring countries were as follows: Botswana 1:270, Lesotho 1:897, South Africa 1:416, Swaziland 1:433, Tanzania 1:1 298, and Zambia 1:737. Police strength arguably has a bearing on the level of risk that must be considered by organised criminal syndicates operating within a given country.

A number of factors have precipitated a calamitous deterioration in Zimbabwe's economy, which was expected to decline by a further 5.3% in 2002. Inflation was 115.3% at the end of February 2002, up from 112.3% in December 2001 according to Central Statistics, with a resulting erosion of real salaries and wages and purchasing power. The projected budget shortfall for 2002 was Z\$138.3 billion (US\$2.51 billion). Major sources of economic stability, namely agriculture, mining and manufacturing, have been performing poorly for the last three years and the tourist industry has been adversely affected by the almost perennial political turmoil in the country.

### **The concept of organised crime**

At present there is no formal definition of organised crime in Zimbabwe, but the country is a signatory to the United Nations Convention Against Transnational Organised Crime (the Palermo Convention) and it may therefore be appropriate to adapt the conceptualisation employed by the Convention in defining the phenomenon of organised crime, and to use this to survey the situation in the country.

The term 'organised crime' may be loosely and generically used to describe the activities of organised criminal groups consisting of three or more persons who commit serious crimes over a period of time for profit. In most countries police and lawyers have struggled to develop a satisfactory definition of organ-

ised crime, mainly because its nature differs from country to country. The fact that the well-known Mafia groups in the United States have clear hierarchical structures has led to some American definitions emphasising structure when elucidating the concept of organised crime. In southern Africa, however, indications are that organised criminal groups are not as structured as the Mafia. They tend to function in loose and shifting associations and alliances with others, or in networks without a clear hierarchy. Different definitions have thus been used by police agencies in different parts of the world.

Article Two of the Palermo Convention also defined serious crime as "conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty" and a structured group as "a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure".

### **Theoretical perspectives**

Certain underlying theoretical perspectives help to explain current trends in the incidence, forms and gravity of organised crime in Zimbabwe.

Dramatic changes have occurred in the country as a result of the deteriorating economic situation, and sectors once regarded as the mainstay of the economy are on the wane. As in Nigeria and Zambia in the late 1970s and early 1980s, educated and entrepreneurial Zimbabweans have found many 'traditional' sources of income unavailable to them at a time when the environment in which they have to survive is quite hostile.

Matrofski & Potter<sup>1</sup> argue that the driving force behind organised crime is the profitable market for illicit goods and services. Thus, the motivation for stealing motor vehicles can be traced to the huge returns from informal markets in the country and the wider region. To limit the power and influence of organised crime, the state must manipulate either the market or the capacity of criminal enterprises to compete for it.

Policy responses based on this understanding of the rationale for organised crime will typically seek to enhance the appreciation of the market for illicit goods and services by law enforcement agencies. Improved industry-focused, intelligence gathering operations are key tasks in this regard. Also important is sensitivity to shifts in the legitimate economy, to technological advances, legal

changes and social trends, which might shape the opportunities for criminal enterprise by changing the risks and returns of various illicit entrepreneurial activities. Inevitably such policy responses call into question the capacity of law enforcement agencies to perform the required tasks, particularly in an environment undergoing macroeconomic transition.

The economic downturn in Zimbabwe has been accompanied, and to an extent exacerbated, by two significant related developments: the crisis in the Democratic Republic of the Congo (DRC) and the rise of political opportunism. The latter was precipitated by the demise of the popularity of the ruling ZANU(PF) party as the economy continued to slide into recession. The response of the party and the government was to create and occasionally expand opportunities for the acquisition of wealth by the beneficiaries of patronage. These new opportunities were occasionally exploited through crime and corruption. Part of this report deals with the exploitation of resources in the DRC following the intervention of Zimbabwe in the conflict in that country. It also surveys the criminal activities that accompanied and became part of the invasion of land and corporate institutions from the first quarter of 2000, and argues that there is a discernible link between the vicissitudes of the economy and the growth of organised crime.

## Major forms of organised criminal activity

The main forms of organised criminal activity in Zimbabwe are:

- armed robbery, including robbery of cash-in-transit;
- theft of motor vehicles;
- serious fraud;
- counterfeiting and money laundering;
- extortion rackets;
- telephone service piracy (international call centres scam);
- drug trafficking;
- diamond and gold smuggling; and
- corruption.

This chapter examines patterns and trends on a crime-by-crime basis.

## Patterns and trends

### *Armed robbery, including cash-in-transit heists*

From the point of view of the public, armed robbery has probably been the most visible and prevalent form of organised crime in Zimbabwe in the past two years. It has generally taken two forms: robbery of motor vehicles and cash-in-transit robberies. Armed robbery occurs in both forms in the urban and peri-urban areas, but it is particularly widespread in Harare.

The Anti-Hijack Trust in Harare reports that between January and December 2000, 417 motor vehicles were seized in robberies in Harare. The same period in 2001 showed a decline to 204 vehicles. In 2000 there were 77 unsuccessful attempts to rob vehicles and the number declined to 42 the following year. Various methods have been used in the commission of robberies. Available reports indicate that in the majority of cases criminals trail victims to their residences and confront the driver at the gate. Recent variations are to ambush motorists at traffic intersections, at breakdown situations and even at road humps. Robberies have been committed using firearms, knives, bayonets, stones, knobkerries and even broken bottles.

Mazdas and Toyotas are most vulnerable to robbery. While some stolen vehicles are marketed locally, others are destined for external markets. Stolen vehicles have been smuggled to Zambia, Mozambique, the DRC, Botswana and Namibia. Stolen luxury vehicles are usually exported for sale in a foreign currency, the US dollar being the favoured currency. Vehicles that are not exported are either used in committing other crimes, such as armed robbery, or are stripped for spares.<sup>2</sup>

To facilitate the exportation of stolen vehicles, criminals use forged Temporary Import Permits (TIPs) and vehicle registration books and, occasionally, false registration plates. According to the Interpol sub-regional bureau for southern Africa, after a vehicle is stolen the criminals enter its identification particulars, such as the engine and chassis numbers, on the import permit and in the registration book. These documents enable them to go through police road-blocks and to drive across borders, as the authorities are unable to probe beyond the TIP. The relatively low use of technology to disseminate information on stolen vehicles among law enforcement agencies within the various states and across their borders works to the advantage of criminal syndicates. It is standard practice to alter or remove identification features and engine and chassis numbers.

The routes that have been used in getting vehicles out of Zimbabwe are the Great North Road between Harare and Chirundu, the Nyamapanda road between Harare and Mudzi, the road from Bulawayo to Victoria Falls, and the Mutare road to Mozambique. The Beit Bridge and Plumtree border posts do not seem to be used in the exportation of vehicles from the country, although there is evidence that vehicles stolen in South Africa and Botswana have been driven through.

Armed robbery of motor vehicles is perceived by the local police to be a prevalent offence, and they are also aware of its cross-border dimensions.<sup>3</sup> Information on the criminals was retrieved from police and court records. Relatively small groups, with an average of three in each group, have been implicated in the armed robbery of motor vehicles. Where the theft is motivated by an intention to dispose of the vehicle beyond the borders of the country, however, there are indications that a larger number of people tend to be involved. Most of the cases under investigation have not unveiled the ‘concealed’ players.

**Case study 1: CC and two others**

A Mercedes vehicle was stolen from the owner using an AK 47 rifle and a pistol. Another vehicle was used to trail the Mercedes and block it from behind when the driver stopped to drop off a friend. After the robbery, the Mercedes was used in an unsuccessful attempt to rob another motorist of a Toyota Prado, using the same method. Two weeks later the vehicle was stopped at the Chirundu border post en route to Zambia to be sold. The car had by then been fitted with South African registration plates. Four people were involved but one could not be found. The case against the other three was pending at the time of writing.

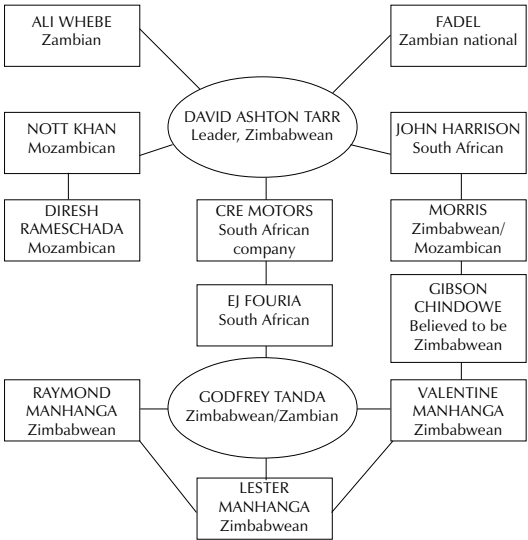
**Case study 2: D and three others**

This involved the impersonation of the police by individuals who flagged down the driver of a loaded delivery van. They then forced him out of the van and pretended to be taking him to a police station. One of the suspects drove the van and some distance later it was diverted to a deserted spot, where the driver was dumped, after being warned of dire consequences if he reported the matter to the police. A knife was brandished. A gang of four, including one female, was later apprehended and they were awaiting trial at the time of writing. The van was recovered.

*Links with other criminal syndicates*

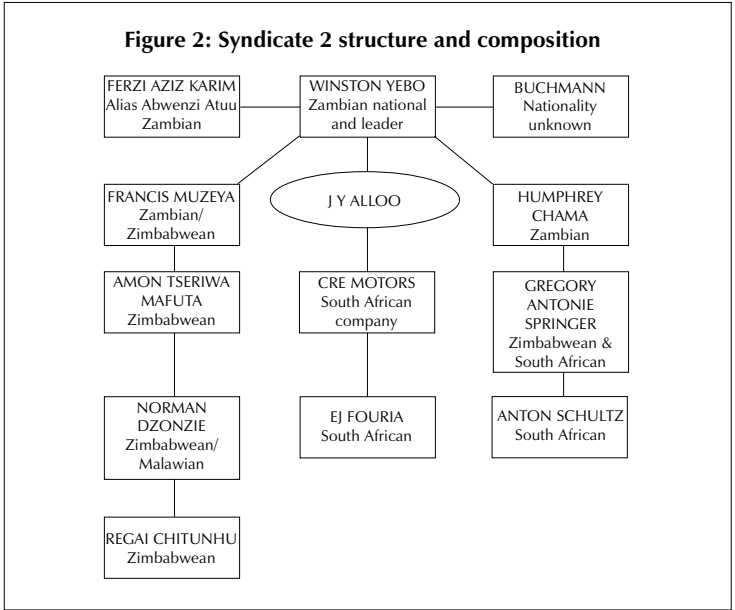
Even though these two case studies do not reflect this, a police survey of profiles shows that in Zimbabwe a typical established syndicate specialising in vehicle theft has a multinational composition, involving at least three nationalities. It is quite common for one or more members to hold dual citizenship, which is partly the result of the periodic migrations that litter the history of Southern Africa. Many Zimbabweans were born and lived for some time in Zambia, and many South Africans were born and bred in Zimbabwe or Zambia. A high number of Mozambicans have ‘roots’ in both Zimbabwe and Mozambique. The same applies to some nationals of Malawi, Botswana and Angola. The utility of these links cannot be underestimated in either the functioning of regional crime syndicates or their ability to evade the law. Through them, criminals have a head start over law enforcement authorities that rely on standard methods of international cooperation. The organograms below illustrate the structure and national composition of two syndicates known to Interpol.

**Figure 1: Syndicate 1 structure and composition**



(Note: It appears that one of the Manhangas is now deceased. At the time of writing, the police had yet to confirm the identity of the deceased.)

The vertical lines linking names show which individuals are known to operate together and do not necessarily denote hierarchical relationships. Thus David Tarr is a central figure who would probably be known to all the others. Diresh Rameschada, on the other hand, might not know Raymond Manhanga, even though the activities of one could affect the other. It is possible that they have never met, since they are likely to be operating in different countries. It should also be noted that the presentation above is simplistic. Any of the ‘fringe’ operators, such as Raymond Manhanga, could have his own network that supplies the main syndicate but is unknown to it.



During the 1980s the Muzeya brothers and cousins became notorious for motor vehicle theft. At the height of their exploits, five members of the family

were active. Of Zimbabwean origin, most of them grew up in Zambia during the ‘UDI years’ and police believe that the contacts that assisted them in vehicle theft were developed during that time. The family fell upon difficult times in the early 1990s after a major police and judicial crackdown. It appears that only one member remains active, working with entirely different confederates.

*Links with state functionaries*

Motor vehicle theft is a high-risk activity. To minimise the risk, criminals will inevitably try to bribe law enforcement officers and regulatory personnel such as customs officials. Corruption forms part of the tools of the trade. The ultimate prize for criminals is to plant agents in key sectors. Cognisant of the risk, the Car Theft Squad of the Criminal Investigation Department in Zimbabwe regularly rotates officers. In the last three years no links between criminals and detectives have been reported.

The Customs Department, which is part of the Zimbabwe Revenue Authority, is responsible for managing the TIP system. It did not have statistics on the incidence of forged TIPs, or irregularly issued TIPs. This is an area requiring further research. The Southern Africa Regional Police Chiefs Co-operation Organisation, in cooperation with Interpol, introduced a regional vehicle clearance certificate at the beginning of 2000 to distinguish stolen vehicles from legitimately acquired ones. The certificate is believed to have had a modicum of success.<sup>4</sup>

*Cash-in-transit robberies*

It has been established that the weapons used in some of these robberies were stolen from security guards on duty at industrial premises, but others were acquired from neighbouring countries such as Mozambique.

Syndicates comprising insiders and professional criminals have been implicated in stage-managed theft of cash in transit. The information at hand is that more than 60% of them are indigenous and male in composition. A widely reported case that was pending at the time of writing involved 12 participants, one of whom was a driver for a well-known security firm, Fawcett Security. The driver connived with his accomplices to stage-manage a robbery of the van that he was driving from a commercial bank to the head office of a building society in Harare. He was given a cell phone to enable him to communicate with accomplices. Z\$7 million in cash was stolen.

### *Links with other criminal groups*

In this case no links with other criminal groups are known, but the leader of the gang, one Norman Karimanzira, fled to Mozambique after the robbery, moving on to Zambia, where he was arrested after a few months. At the time of his arrest, he held a Mozambican passport, apart from his Zimbabwean identity documents and passport. He might also have a Zambian passport.

### *Links with state structures or functionaries*

At least one member of a syndicate involved in armed robbery, George Chikanga, has been linked to a former Minister of Justice. Press reports allege a familial relationship between the ex-Minister and the syndicate member. It was further alleged that, while in prison, the latter boasted that the Minister was his father and would get him released. A High Court judge found that the former Minister had acted irregularly in March 2000 by ordering Chikanga's release from prison, where he was serving a lengthy term for armed robbery. He committed another robbery after his release and is now back in prison.

During the trial, it emerged that the ex-Minister directed the release of funds, found in Chikanga's possession on his arrest, to the accused's mother, even though the funds were suspected to be the proceeds of crime. The court ordered him to appear and explain his role. The ex-Minister refused, opting to file an affidavit in which he conceded the impropriety of the release but blamed it on the Permanent Secretary and a personal assistant. Both officials had died (of natural causes) by the time of the trial. The judge in the case has since resigned from the bench.

Police believe that Norman Karimanzira managed to evade arrest for a long time by using the contacts he had developed, through bribery, with well-placed police officers.

### ***Theft of motor vehicles***

Government crime statistics show that between January 1996 and April 2000, 6,393 vehicles were stolen in Zimbabwe, an average of 125 a month. This figure evidently includes vehicles stolen using violence. Statistics for the period May 2000 to date could not be found. Disposal trends are similar to those relating to robbed vehicles, outlined above.

### *Police perception*

Vehicle theft, with or without the use of violence, is considered to be prevalent, and to have cross-border dimensions.

### ***Serious fraud***

#### *Urban residential stands scam*

Kay Makhela, also known as Gerald Marimudza, is accused of defrauding several thousand home seekers of millions of dollars by misrepresenting that his company, Metof Investments, owned and had the authority to sell residential land. Taking advantage of the acute demand for such land, Metof is alleged to have received deposits from home seekers even though it did not have title to the land or the required authority to subdivide it. It is believed that depositors were defrauded of up to \$70 million.

It has not been established whether Makhela was acting in association with others. It is also not known whether his criminal operation has links to others within or outside Zimbabwe. He has managed to evade arrest since the falsity of his representations became known. In the meantime, there has been a proliferation of bogus estate agencies claiming to be active in the property market but dealing in non-existent residential stands. Five are known to operate in Harare, and two have been discovered in Bulawayo.

#### *Bank fraud*

This generic class of criminal conduct is proving problematic in Zimbabwe. Fraud is committed by the use of false national identity particulars and stolen or forged cheques. The basic method involves penetrating the National Registration Bureau and falsifying the identity photograph on stolen identity disks. Using the false disk, the criminal opens a bank account with a cash deposit, forges stolen cheques, deposits them into the newly opened account and subsequently withdraws the proceeds, which can run into millions of dollars, particularly in cases where there is collusion with bank employees.

The prevalence of this kind of fraud has been exacerbated by the fact that large numbers of banking staff have been laid off in the last five years as the banks battle to survive in a shrinking economy.

The Criminal Investigation Department finds these fraud cases difficult to investigate as the legitimate owner of the identity disk is often an innocent victim of theft, who may even have reported the theft to the police. There is not much integration of databases between the police and financial institutions to prevent the opening of accounts under false names or particulars.

#### *Links with state organs or other criminal syndicates*

While it is possible for the mode of fraud outlined above to be committed without involving bureaucratic collusion, this would be difficult as the resources to produce false identity documents are costly. Furthermore, to allay suspicion the identity particulars need to bear some resemblance to genuine particulars in the national system. It is far easier to obtain a ready-made disk from the government office responsible for this function. No case has yet been established against an officer from the National Registration Bureau, but it is believed that there is collusion and that it is motivated by bribery. It is also suspected that it extends to the banking sector, with certain bank employees participating in defrauding clients or their employers by facilitating the payment of forged cheques. Bribery is also at the centre of these activities. The involvement of former bank employees also makes it easier for these frauds to be committed: such individuals are obviously better versed in the finer aspects of banking than those without banking experience.

The Officer Commanding the Serious Fraud Squad believes that bank frauds are highly prevalent. The identities of syndicates were expected to be revealed during 2002.

#### ***Counterfeiting and money laundering***

Counterfeiting and money laundering, though not technically the same, tend to occur in close proximity. The police response to a survey questionnaire at the end of 1999 indicated that trade in counterfeit notes was a prevalent offence in Zimbabwe, but it was difficult to obtain statistical data to substantiate or contradict this position. This part of the report focuses on money laundering related to currency fraud and on telephone piracy, both of which are visibly prevalent offences.

Zimbabwe opted for a broad definition of money laundering to encompass doing virtually anything with the proceeds of crime, even merely possessing such proceeds. There have been very few prosecutions, despite the practice

having been criminalised in 1990. With the advent of currency speculation, money laundering is described as being 'rampant' in the country.

In 2000 and 2001 there was a notable increase in corporate demand for foreign currency for the purchase of inputs and payment of creditors. Most large businesses rely heavily on foreign currency and have become vulnerable to criminals.

The typical fraud is initiated by a criminal, alone or as part of a syndicate, claiming to have one or more offshore accounts and offering to exchange some of the funds in the account for Zimbabwean dollars, at the going rate on the parallel market. A statement from a reputable foreign financial institution, which may or may not be genuine, often supports the claim. Transactions usually involve corporate institutions which have their own offshore accounts. Having struck an agreement, the criminal deposits a cheque or bank draft for foreign currency into the account of the corporate 'client', after which the 'client' pays the criminal the Zimbabwe dollar equivalent. Within days, the 'client' learns that the bank draft or cheque for foreign currency has been rejected and the transaction aborted by its foreign bank. By that time the criminal has disappeared.

The chain of events does not stop there as the criminal ultimately needs genuine foreign currency, rather than Zimbabwe dollars. With the funds obtained the criminal is in a position to acquire foreign currency on the parallel market. If he is well connected, or fortunate, the criminal may even be able to obtain such currency on the official market, at favourable rates. (For example, while a US dollar will cost him Z\$350 on the parallel market, on the official market it costs only Z\$55.) Rates vary, with lower rates being available outside Harare.

Once the criminal has found foreign currency, he may smuggle it out of Zimbabwe and invest it in any of the neighbouring countries. One case being handled by police in Pietersburg (Polokwane) in the Limpopo province of South Africa involves one Murangare, a Zimbabwean national, arrested while trying to cross into South Africa through an undesignated crossing point carrying R700,000. South Africa and Botswana are favourite destinations for this kind of capital. Proceeds from the investment can be used to generate more money through currency speculation along similar lines to the first act. Zimbabwe police suspect that the Zimbabweans involved in an armed robbery at Johannesburg airport at the end of 2001, in which goods and money worth R25 million were stolen, intended to launder the money and recycle it in South Africa.



### *Links with state functionaries and other criminal syndicates*

Both types of money laundering involve links with external criminals and, in the case of the currency fraud, probably the involvement of functionaries within the banking sector. Such fraud could even involve employees of the 'victim' corporate body acting in collusion with the bogus currency traders. It has been difficult to date for the local police to trace the complex webs of deception, although they have been aware of them for some time. The delays in reporting cases do not assist the detection process. Criminals are aware that victims will invariably take time to report the matter because of the illegal nature of the underlying transaction and for fear of adverse market and shareholder reaction that might result from publicity.

#### **Case study 3: The United Merchant Bank and Boka Group of Companies cases**

The United Merchant Bank was incorporated in May 1995. In less than three years the bank's licence was revoked after it became known that it had a low capital ratio and inadequate liquidity to meet the claims of depositors and other liabilities. Police investigations subsequently revealed that many illegal activities had been committed.

##### **1. Fraud: Cold Storage Commission bills**

Following its commercialisation (a prelude to privatisation), the Cold Storage Commission (CSC) contracted the bank to raise funds on its behalf on the local money market. This was to be done through the flotation of Commission bills. The Commission required Z\$413 million. The government issued guarantees to the value of Z\$855.16 million to be used as security during the flotation of the bills. The bank raised the amount required by the Commission and remitted it. Thereafter the bank sold further bills worth Z\$1.263 billion on the local money market, and converted the entire amount to its own use. The founder and Chief Executive of the bank, Roger Marume Boka, was found to have been at the centre of the illicit activities. Five others assisted him. Boka died on 21 February 1999 before he could stand trial. It is not clear how much of the converted money has been recovered.

##### **2. Conversion of depositors' funds**

Various persons and institutions deposited funds with the bank during its short life. Upon cancellation of its licence the bank owed

Z\$1,558,102,770 to depositors, which it was not in a position to repay. Some bank documents and computers could not be traced. Charges were laid against Boka and his accomplices in terms of the Serious Offences (Confiscation of Proceeds) Act, but he died before he could stand trial. The investigation was transferred from the police to an investigator appointed by the Minister of Justice, in terms of the Prevention of Corruption Act. The Minister appointed the Governor of the Reserve Bank, a rather unusual measure. The relationship between the investigator and the police is not clear in the Act, and the investigation does not seem to have moved much. The then-Minister of Justice is known to have had a cordial relationship with Roger Boka and to have borrowed a substantial amount from the bank.

##### **3. Money laundering**

In the short life of the bank, Roger Boka opened and operated several personal accounts with the following foreign banks:

- Botswana: First National Bank
- South Africa: Nedbank, Absa, First National Bank
- United Kingdom: Midland Bank plc, National Westminster Bank plc
- United States: Marine Midland Bank (New York), Merrill Lynch Bank (New York)
- Germany: West Deutsche Landesbank
- Luxembourg: Hypo Bank
- France: Bank Société General

Sometimes through his lawyer, Gregory Slatter, Boka externalised at least US\$21 million in violation of exchange control legislation. Slatter, who was the senior partner in a law firm in Harare, was on the board of the bank and a signatory to the bank's account at the Zimbabwe Banking Corporation. The firm acted as corporate secretaries for the bank and as legal advisers to both the bank and the Boka Group of Companies. The main business specialties of the group were tobacco and gold marketing. Slatter disappeared from Zimbabwe soon after the death of Roger Boka, by which time he had already been charged with violating the Prevention of Corruption Act and the Companies Act. It was later discovered that Slatter also operated a foreign bank account in England. None of the foreign funds appear to have been repatriated.

The prejudice to the economy of Zimbabwe caused by Boka's activities goes without saying. Questions have been raised as to whether Boka acted with the assistance of highly placed state functionaries. Suspicions abound, partly because Boka was well connected to various government ministers and officials of the ruling party. He was reported to have complained that the parlous state of the bank was caused by the failure of key debtors in government to repay what they owed. This is unlikely to be the whole truth, but it gives some indication that Boka may not have been a lone villain.

### **Extortion rackets**

#### *Background*

Extortion racketeering on a large scale is new to Zimbabwe. It has tended to be intricately connected to political developments between 2000 and 2002 and coincides with, and also symbolises, the general breakdown in law enforcement during that period. Criminal elements have taken advantage of the disorder created by the chaotic and extra-legal methods of land seizure and the bullying tactics adopted by the ruling ZANU(PF) party in the run up to the presidential elections. Extortion in this period has followed two patterns: the levying of protection fees and the extraction of illegitimate funds from industrial and commercial concerns.

#### *Protection fee rackets*

The land seizures have been characterised by incidents of farm occupation. Most of the occupations have been instigated and coordinated by the ruling ZANU(PF) party and its government agencies, partly to punish farmers perceived to be supportive of the opposition MDM and partly to establish bases from which to restrict the campaigns of that party. Occupations are accompanied by violence, usually against the farm owner and workers.

Protection fees, usually but not exclusively in the form of cash, have been demanded from certain white farmers to prevent or stop farm occupations. Crops and other property have also been demanded as a form of protection fee. Reports of extortion rackets first surfaced in the Shamva district of Mashonaland Central but indications are that the practice has occurred in other places as well. The Commercial Farmers Union has information of occurrences involving some of its members, but will not identify them. A former High Court

judge has also confirmed receiving reports from some of the affected farmers, as have some lawyers representing them. Unfortunately the environment in Zimbabwe was such that disclosure of names and places was considered risky. Detailed information, which was expected to become available after the presidential elections, will probably only emerge later.

In the chaotic land appropriation and distribution campaign pursued by the Zimbabwe government during 2001 and 2002, acquired land was allocated to party activists and individuals connected to the regime. In some instances, no proof of allocation was required apart from a simple letter from the Minister of Lands and Agriculture. In some cases, displacement of a farm owner has occurred without any documentation. This provided a convenient backdrop to the classic methods used in extortion incidents.

In a publicised case, a criminal group used the ruse that a farm had been allocated to one of them—a prominent party political activist in the ZANU(PF) party—and then demanded a percentage of the sales of the previous year's crop. Z\$15 million (US\$272 700) was demanded from the farmer, with accompanying threats that if he did not pay up by a certain date, unspecified harmful action would be taken against him. Fortunately the police responded to the farmer's report before the payment date and some members of the group were arrested. The case was pending at the time of writing.<sup>5</sup>

#### *Extortion incidents during the invasion of companies, March–May 2001*

Between March and May 2001, the premises of about 100 industrial and commercial concerns in urban areas of Zimbabwe were invaded. Labour disputes with current or former employees, for instance over retrenchment settlements, were a fairly common pretext. The invaders arrogated to themselves the right to resolve such disputes. The invasions were organised at the headquarters of the ZANU(PF) party in Harare and led by groups of 'liberation war veterans'. Invasions were coordinated by the ZANU(PF) Labour Committee, some government officials, and a trade union federation aligned to the ruling party. Invading groups comprised between three and 30 people. In 20% of the cases, former employees of the company who claimed to have an unresolved grievance accompanied war veterans in the invasion. Through violence and intimidation, the invaders demanded the disbursement of unlawful payments to workers as 'retrenchment' packages, or the reinstatement of dismissed workers. In incidents at the 50 companies surveyed in a study commissioned by the Friedrich Ebert Stiftung, the demands of invaders were complied with in 92% of the cases. Respondents reported making undue payments under pressure

and in 18% of cases, lawfully dismissed workers were reinstated. In 99% of the cases, reports were filed with the police but they responded to only 8% of the reports.

In most instances the police preferred not to get involved on the grounds that the incidents were of a political nature. Partly in consequence, there are very few cases arising from the extortion incidents awaiting prosecution. Police records on the orgy of extortion during this period are scanty and unhelpful. It is difficult to determine how much was ultimately extorted or how the extorted funds were shared.

#### *Police perception*

The police did not regard extortion as prevalent. It must be noted that police statistics tended to sift out cases considered to be of a 'political' nature. Incidents arising from the state-supported chaos generally fell into this category.

#### *Links with other criminal groups*

Groups involved did not seem to have links with other criminal groups within the country or outside it. There was a relationship between the groups involved in the extortions on the farms and those involved in urban extortion in that the same criminals often featured. It also emerged that key participants were political activists of the ruling party.

#### *Links with state structures or functionaries*

As indicated at the beginning of this section, the extortion cases reported during this period were committed by criminals who took advantage of a situation created by state structures that would normally be expected to enforce the law but chose not to. Although it is not a state structure, the ZANU(PF) Labour Committee, which was centrally involved in coordinating the invasions, had considerable influence over state structures. The state turned a blind eye to the activities of the committee, and the police abdicated the law enforcement responsibilities imposed on them by the country's constitution and legislation. There was thus a link between state structures and the perpetrators of the urban and rural extortion in the sense that the state's inaction amounted to collusion in the extortion. Occasionally, corruption and theft facilitated collusion. In a reported incident, a police officer who had arrested a suspect for extortion seized some of the proceeds and retained them for himself. At the time of writing a charge of theft was pending.

## ***Telephone service piracy***

### *International call centres scam*

Several occurrences of the interception of telephone exchange facilities for private use were detected in Harare in 2001.

#### **Case study 4: JK and three others**

The accused and another, both Rwandese nationals with refugee status and married to Zimbabwean spouses, applied for numbers from the Posts and Telecommunications Corporation (PTC). They then used these numbers to connect various clients using the PTC's conferencing facility. As a result, the PTC was prejudiced by an amount of Z\$3,315,750. JK implicated two others but they were not charged, apparently because there was no other evidence against them.

#### **Case study 5**

A syndicate of seven, made up of three Zimbabweans, two Pakistanis, a Kenyan and a Somali national, used spare lines recovered from defaulting clients to set up informal telephone exchanges, through which telephone calls were routed.

#### **Case study 6**

A syndicate comprising at least ten Indian nationals is alleged to have operated call centres using PTC lines. They connived with a technician and a clerk of the PTC to suppress the recording of units when calls were made, thus diminishing the revenue accruing to the PTC.

#### *Links with other crime syndicates*

No specific foreign links have been established, but it is suspected that call centres may have been used to facilitate transnational drug trafficking. Call centres are both attractive and vulnerable to foreign syndicates with the necessary expertise. The evidence from Zimbabwe indicates an abundance of such expertise on the continent and beyond. A spokesman for the PTC stated

that in recent years nationals from Ethiopia, Somalia, Nigeria, Kenya, the DRC, Pakistan and India have been implicated in the violation of telecommunications laws.<sup>6</sup> In February 2002, two Senegalese nationals were arrested in Cape Town, South Africa, in connection with telephone piracy, committed by the interception and use of underground telephone lines. The case was pending at the time of writing.

#### *Links with state structures*

No links with state structures are known, but influence was exerted over employees of the PTC parastatal through bribery. In fact, the proliferation of telephone shops in the mid-1990s increased the exposure of the PTC to this kind of offence as former and current employees had interests in about two-thirds of the shops. There has not been much improvement in the parastatal's capacity to maintain its service and extend it to the population at large. As a result, telephone shops are still on the increase.

Telephone piracy, which has also surfaced in South Africa, appears to have involved officials within the telecommunications authorities. It could also involve corruption in the immigration department. There is no doubt that local pirates required, and relied on, a network of contacts operating in the countries in which the other exchanges were hosted. These contacts were needed to put the calls through and to ensure that payments for the service were made and the funds accounted for. They may also have been needed to purchase luxury commodities. To date none of the syndicates involved in telephone piracy have been apprehended, nor have their accomplices, whether local or foreign.

#### *Police perception*

The police do not regard these offences as prevalent, but the PTC, which at the time of writing had been restructured and renamed TelOne, is concerned about the incidence of telephone service piracy and its effect on revenue. The estimated cost of piracy was Z\$20 million (US\$363,636).

### ***Diamond and gold smuggling***

#### *Background*

Zimbabwe does not produce diamonds of any significant quantity or quality and most diamond transactions in which its nationals participate are likely to

involve foreign diamonds. Key diamond producers include neighbouring Botswana, Namibia, South Africa, distant Angola and the DRC.

Zimbabweans have had access to all these countries. In particular, Zimbabwe's security forces have conducted operations in Angola and the DRC in recent years. The Angola expedition was more limited in scope and duration than the intervention in the DRC, which officially commenced in August 1998 and involved at least 11,000 troops. Regular personnel changes provide opportunities for conveying various commodities between Zimbabwe and the DRC. Small-scale and organised diamond smuggling has been noticed.

It has been reported that Zimbabwean soldiers allow local DRC nationals, known as *Krizeras*, to pan for alluvial rough diamonds along the Lubilanji canal, in the Mbuji Mayi area, and thereafter either share the spoils with them or buy diamonds from them. Probably more than half of the diamonds are sold to dealers in Mbuji Mayi, who subsequently sell them to international traders operating out of Kinshasa. A smaller number of diamonds are smuggled to Zimbabwe for sale to intermediaries. Dealers and intermediaries arrange onward exportation to major centres in Belgium, the Netherlands, Israel and the United Kingdom. According to a report compiled by the United Nations Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the DRC, smaller amounts end up in Mauritius, India, and the United Arab Emirates. It should be noted that the panel did not find any evidence of diamond smuggling from Zimbabwe. However, well-placed sources confirmed that a significant amount of smuggling was taking place.<sup>7</sup> It has also been confirmed that incidents of diamond smuggling have been reported to Zimbabwe's army commander. No action seems to have been taken against those implicated. The value of the informal diamond trade within the country has not been calculated.

#### *Zimbabwe Defence Force commercial ventures in the DRC: Innovative public-private partnership or an alliance for plunder?*

The decision by the Zimbabwe Defence Force (ZDF) to engage in commercial ventures in the DRC preceded the outbreak of hostilities between the Kabila regime and rebels supported by Rwanda and Uganda. It first came to light in 1996, when the Zimbabwe government expanded its support to what were then rebel forces led by Laurent Desire Kabila (now deceased) against President Mobutu. The initial indication was an undertaking by the Zimbabwe Defence Industries (ZDI) to supply food substances and war material to Kabila's rebel forces. After Kabila's accession to power, the arrangement was consoli-

dated with the formation of a succession of joint-venture companies, namely Congo-Duka, Cosleg, Oryx-Zimcon and Sengamines. Partners were companies directly controlled by Kabila and a company based in the Cayman Islands, brought in ostensibly for its financial and mining expertise. The declared objective was to exploit the natural resources of the Congo to offset the costs of Zimbabwe's military ventures in that country.

Congo-Duka had a short life. The ZDF component of its successor, Osleg (Pvt.) Ltd, is controlled by a board comprising the ZDF commander, Lieutenant General Zvinavashe; the permanent secretary of the Ministry of Defence, Job Whabira; the director of the Minerals Marketing Corporation of Zimbabwe (MMCZ), Onesimo Moyo; the general manager of the Zimbabwe Mining Development Corporation (ZMDC), Isaiah Ruzengwe; retired Major General Charles Dauramanzi; and Brigadier John Moyo. Osleg has interests in mineral, timber and other resources found in the DRC. Apart from diamonds, the DRC has gold, cobalt, coltan, copper and vast forestry resources. Osleg has a joint venture with Comiex-Congo, a Kinshasa-based company, in an entity called Cosleg (Pvt.) Ltd. Oryx-Zimcon is the joint-venture company formed between Osleg and Cayman Islands-based Oryx Natural Resources Ltd. Sengamines is the joint venture formed from the combination of Cosleg and Oryx-Zimcon. It is registered in the DRC.

In terms of the agreement between Osleg and Comiex-Congo, Osleg pledged resources to protect and defend, support logistically, and assist generally in the development of commercial ventures in the Congo, while Comiex-Congo pledged mineral, forestry and other natural resources under the control of the DRC. The joint venture responsible for exploiting forestry resources such as logging is called Socebo, an acronym for Societe Congolaise d'Exploitation du Bois.

The joint ventures described could be beneficial to the ZDF and thus in the national interest. Such ventures have become common today, especially in the United States, the United Kingdom, South Africa and Canada. The Canadian Council for Public-Private Partnerships defines a public-private partnership as a cooperative venture between the public and private sectors, built on the expertise of each partner, that best meets clearly defined public needs through the appropriate allocation of resources, risks and rewards.<sup>8</sup>

The purpose of this study is to assess the legality of the ventures. It is submitted that an evaluation one way or the other must take account of the underlying legitimacy of the context in which the ventures are located, as well as the logistical realities of the resource exploitation that is the basis for their existence.

A study of the genesis of the DRC joint ventures and of the composition of the constituent partners reveals their vulnerability to exploitation for private wealth accumulation by individuals and political entities. It is known that the entire DRC expedition has not received public support in Zimbabwe and that its continuation is of questionable legality. Apart from the absence of parliamentary approval for the dispatch of troops to assist Laurent Kabila to repel his erstwhile partners after their fallout in 1998, the decision to enter into joint commercial ventures was highly secretive, with most of the established guiding principles<sup>9</sup> in the sphere of public-private partnerships being either overlooked or ignored. Information on the existence of the ventures and the nature of the transactions they entail has never been reported to Parliament. In consequence, there is no accountability to the public outside the circles of individuals who are privy to the ventures. Government is vague and frequently evasive about the funding of military involvement in the DRC.

The conduct of commercial operations around the joint ventures is prone to corruption, as the public office holders have not extricated themselves from their private interests and roles are blurred. For instance, the commander of the ZDF, who is one of the directors of Osleg, was awarded the contract to transport supplies to the DRC as far back as 1997. As far as is known, the contract still subsists, with the contractors having changed to take account of the evolution of the arrangements in the DRC. His transport company also ferries mineral products from the DRC to Zimbabwe and to ports in South Africa. The commander is also believed to hold a minority shareholding in Socebo, the timber exploitation Cosleg subsidiary, through a nominee. Logging operations in some of the concessions have been assigned to Zimbabwean military personnel.

Osleg's proclaimed *raison d'être* of augmenting the financing of the war is inconsistent with its shareholding structure. At the time of the formation of Cosleg, each of Osleg's directors held 2,500 shares in Osleg in their private capacities. No accounts reflecting the performance of the company have been made public so it is difficult to determine the value of the private shareholding or the value of the joint ventures. According to figures released by the Ministry of Finance in February 2002, expenditure on the military for 2001 was a massive Z\$16.2 billion (US\$29.45 million), or more than 12% of the entire budget. No provision was made in the 2002 budget for inflows from joint ventures with external companies.<sup>10</sup>

The authority of Comiex-Congo to pledge national resources of the DRC has also been questioned. At the end of 2000 the majority shareholder of Comiex-

Congo was Laurent Kabila. There is no evidence of any transfer to the DRC state after his death. If anything, the company appears to be continuing the role of privatising national assets and making them available to foreign entities through a web of joint-venture companies.

The UN panel of experts observed that one of the factors that motivated Zimbabwe's involvement in the DRC war was "the declining exchange rate, the failing Zimbabwean mining industry, and the critical energy shortage in Zimbabwe [which] have left few sources for personal enrichment by Government officials". At the same time, the Kabila regime was under pressure to conclude informal and secret arrangements to secure military support.<sup>11</sup> The nature and structure of the joint ventures undertaken on behalf of the defence force tend to support the panel's conclusion.

The official position of the Zimbabwe police is that illicit dealing in diamonds is not prevalent. Illegal extraction of gold is, however, considered to be a problem. There are informal reports that the scale of diamond smuggling is understated. Statistics on gold smuggling were not available at the time of writing.<sup>12</sup>

#### *Links with state structures*

The commercial structures and activities detailed above illustrate what one commentator has described as the combination of Zimbabwean military muscle and logistics with international mining technology and financing to exploit resources. The form of this combination presents much scope for the abuse of state structures and resources for personal enrichment. ZDI is wholly owned by the ZDF. Osleg, a ZDI entity, has private shareholders who are at the same time senior officials in state institutions such as the ZDF, the MMCZ (a parastatal with a monopoly in the marketing of minerals), and the ZMDC. Both Cosleg and Oryx-Zimcon maintain banking accounts with First Banking Corporation Ltd, a Zimbabwean incorporated bank in which ZANU(PF) holds a shareholding of almost 40% through two companies in which it has an interest, namely Zidco Holdings and African Resources Ltd.

#### **Drug trafficking**

The illegal cultivation of, and trafficking in, narcotics is a regional problem in southern Africa. Zimbabwe is among the most heavily affected countries, along with Mozambique, South Africa, Malawi and Swaziland. The most commonly encountered drugs in Zimbabwe are marijuana (cannabis), mandrax, cocaine

and heroin. Only the first is of local origin, which explains why this is a sphere of much transnational syndicate activity.

The sub-regional bureau of Interpol in Harare has indicated that the trend in the trafficking of cannabis is from Lesotho, Malawi, Mozambique, Swaziland, Zambia and Zimbabwe into South Africa. In a few areas of Zimbabwe, notably in the three Mashonaland provinces, Central, East and West, cultivation is on a commercial scale, although occasional police raids have made certain that it is carried out secretly. Invariably the drug is ferried to Harare where it is prepared for transportation direct to Europe (particularly London and Amsterdam) or through South Africa. Significant quantities have been discovered in the possession of airline cabin crews and passengers on the busy Harare-London route. An air hostess with Air Zimbabwe is serving a term of imprisonment in London for smuggling cannabis into the United Kingdom.

In a few instances cannabis consignments have been intercepted while being transported to Mozambique by road through the busy, relatively poorly staffed Nyamapanda border post. Interceptions of supplies heading in the opposite direction are, however, more common, indicating that there is a cannabis route between Malawi, Mozambique and Zimbabwe. Consignments can be massive. In February 2001, a load of 15 bags weighing 50 kilograms each was seized at the Mwanza border post in Malawi from a Zimbabwe-bound truck. Long-distance truck drivers are regularly used as couriers. In most cases they transport the drug for a commission, rather than to market it themselves. The cannabis is often concealed in legitimate goods such as shoes or farm produce. Indigenous players dominate much of the cannabis trafficking industry. International criminals tend to be involved if the drug is to be exported to Europe, as that requires marketing acumen not readily available locally.

Mandrax surfaced in Zimbabwe in the early 1980s when the country opened up after the extended period of isolation precipitated by the unilateral declaration of independence in 1965. Much of it was brought into the country from the Indian subcontinent, mostly for conveyance to South Africa. Dealers were usually from India and Pakistan and nationals of other African countries such as Cameroon, Nigeria, Zambia and Tanzania. Later, some of the Asian mandrax manufacturers set up factories in the region, notably Zambia, and continued supplying Zimbabwe from there. No factory has yet been discovered in Zimbabwe.

#### *Links with state structures*

Save for an isolated incident in the mid-1980s, in which a commissioner of police was successfully charged with stealing mandrax, no links with state struc-

tures have been found or proved. The commissioner's action appears to have been a frolic of his own, as a deputy, who was jointly charged with him, was acquitted.

### *Police perception*

Police regard the problem as prevalent in the case of cocaine, heroin, cannabis and mandrax.

## **Corruption**

### *Public sector corruption*

In contemporary discussions of public sector corruption, a distinction is often drawn between political or grand corruption, on the one hand, and petty or bureaucratic corruption, on the other. The dichotomy appears to be premised on the divide between politics and administration.

Political or grand corruption takes place at the highest levels of political authority. It is when politicians and political decision makers (heads of state, ministers and top officials), who are entitled to formulate, establish and implement the laws in the name of the people, are themselves corrupt. Grand corruption deals with highly placed individuals who either exploit their positions to extract large bribes from national and transnational corporations and significant pay-offs from contract scams, or who embezzle large sums of money from the public treasury into private (often overseas) bank accounts. Political corruption also occurs when policy formulation and legislation are tailored to benefit politicians and legislators.

Political corruption can thus be distinguished from bureaucratic corruption, which is corruption in the public administration, at the implementation end of politics. This low—or 'street level'—corruption is what citizens will experience daily in their encounters with public administration officials in places such as hospitals, schools, local licensing authorities, police stations, customs facilities, tax offices, and so on. The sums involved are rather modest (adjusted to local conditions) and therefore bureaucratic corruption is frequently referred to as routine or 'petty'. Even so, the sums involved may be considerable in particular cases and in aggregated terms.<sup>13</sup>

Both forms of corruption tend to go hand in hand and are mutually reinforcing: political corruption is supported by bureaucratic corruption and the latter

is frequently caused and encouraged by the former. The symbiotic relationship is often manifested and reinforced by a phenomenon that is itself a form of corruption, namely favouritism. Defined as the inclination to accord preferential treatment to friends, family and acquaintances, favouritism is a mechanism for the biased distribution of resources

Zimbabwe is afflicted by both political and bureaucratic corruption. In fact, the legislative frameworks within which the procurement of goods and services occurs in the public sector bristle with opportunities for the extension of favouritism on political grounds, or simply as nepotism. The Prevention of Corruption Act (Chapter 9:16) serves as the primary law against which corruption is determined and prosecuted. It has proved to be woefully inadequate and on occasion it even creates loopholes for secondary corruption!

### *Political corruption*

The economic crisis in Zimbabwe in the period under review exacerbated the incidence of political corruption, as high-ranking politicians took advantage of the opportunities presented by the ubiquitous commodity shortages. The lack of motor fuel products, for example, yielded many avenues for corruption.

A statutory corporation, the National Oil Company of Zimbabwe (NOCZIM), monopolises the importation of fuel into Zimbabwe. Owing to several cumulative factors, NOCZIM's capacity to import fuel during 2000 and 2001 was severely impaired, with adverse consequences for the operation of businesses. It emerged during mid-2001 that the corporation issued licenses to import fuel to 246 private individuals. Most of them were either government ministers or people and companies with government connections. Licences were issued to these entrepreneurs ostensibly for the importation of fuel for corporate or personal consumption. Some found the temptation to import fuel for resale irresistible. Inevitably there was abuse of public storage facilities as fuel imported in bulk had to be stored. A high-ranking government functionary appropriated storage tanks belonging to the National Railways of Zimbabwe in the Midlands towns of Gweru and Chivhu to store fuel imported from Botswana. No rental was paid. NOCZIM refused to release the names of private licensed fuel importers and they had to be obtained from an investigative reporter.

### SHORTAGE OF FUNDS FOR RESIDENTIAL CONSTRUCTION: THE VIP HOUSING SCANDAL

A shortage of mortgage finance and funds for residential construction occurred in Zimbabwe from the beginning of the 1990s. Middle- and lower-ranking civil servants were particularly affected. Pressure from the various unions and

associations representing them led to government setting up a contributory fund for house construction. From about 1995, the fund disbursed allocations, as loans, to individuals who did not qualify in terms of the criteria. The scandal was exposed when some of them failed to service the loans.

It turned out that allocations had been made to some judges, private lawyers, high-ranking civil servants, the commissioner of police, and the editor of a state owned newspaper. Even the president's wife, Grace Mugabe, benefited and used her allocation to build a large house in Harare. By the year 2000 repayments to the fund were still trickling in slowly. Most of the intended beneficiaries were seriously prejudiced, as the fund collapsed and their contributions were lost.

### *Bureaucratic corruption*

In Zimbabwe bureaucratic corruption is exemplified by the claims for compensation submitted in terms of the War Victims Compensation Act (Chapter 11:16) between the end of 1980 and May 1997. The objective of the Act was to compensate individuals who were disabled during and as a result of the war of liberation. Following reports of widespread looting of the fund, a judicial commission of enquiry found that many false claims had been made and paid out during that period. Some of the claims were supported by false affidavits, certifying non-existent service in the war, or declaring that claimants had been discharged from the army when they were still serving, or exaggerating disability levels, or falsifying dates when injuries occurred. Acts of corruption were found to have been committed by personnel in the ZDF, at the compensation office (where claims were processed) and by a number of medical doctors, including Dr Chenjerayi Hunzvi (who later gained notoriety in connection with farm invasions, extortion and electoral violence). The series of corrupt actions admittedly occurred outside the period under review, but it is of exceptional significance in establishing a recurring pattern of dishonesty.

The commission of enquiry concluded that:

Some of the signatures on the medical reports were illegible and appeared to have been forged. In fact, the Commission heard evidence from Mr Blackmore the handwriting expert (which confirmed the Commission's own suspicions) that in a number of cases one of the doctors, Dr C Hunzvi, had deliberately tried to disguise his handwriting to give the impression that another doctor had signed the forms. The doctor realised that his signature would raise suspicion as to the authenticity

of not only the injuries on which the claims were based but also the medical examination purported to have been undertaken. The claimants were close relatives of his, i.e. his uncle Hopio and his cousin Jonathan. There was also strong evidence that Dr Hunzvi himself had signed his own application form again using a forged signature. The inevitable conclusion was that he had examined himself (if at all), and was sufficiently cognisant of the impropriety of his actions to try and disguise his signature.<sup>14</sup>

It was clear that Dr Hunzvi deliberately set out to defraud the state through influencing his relatives to file applications for compensation and then facilitating the successful processing of the claims. Dr Hunzvi claimed for 117% disability and was awarded Z\$361,630.86 (at that time worth US\$28,930) on the basis that he was 85% disabled.

The commission heard that Dr Hunzvi even carried out 'assembly line' medical examinations at the end of meetings of the War Veterans Association, which he led, and regularly recommended awards on the basis of disabilities in excess of 100%!

One of the beneficiaries was Reward Marufu, an in-law of President Mugabe. He claimed for a scar on the left knee (10% disability), ulcers (20%), recurrent aching feet and arms (10%), persistent headache (10%), and post-war stress syndrome (40%). Curiously, the total percentage of disability for which Marufu was compensated was 95%, and he received a whopping Z\$822,668.55 (US\$68,453). At the time of the commission's hearing, Marufu was assigned to the Zimbabwean embassy in Canada. Other recipients included the commander of the defence force (55% disability) and many members of parliament.

No prosecutions resulted from the claims or the findings of the commission

### *LINKS WITH STATE FUNCTIONARIES*

Links with state functionaries are self-evident, as most of those involved were—and in some cases, still are—high-ranking state officials.

### *Private sector corruption*

There are fewer reported instances of corruption in the private sector but this does not mean that it is less prevalent or serious in that sector. With the exception of extortion, there is private sector involvement in the majority of cases of political corruption. This is particularly evident where bribery occurs for the award of tenders to supply goods and services.



The rigging of tender bids is notoriously associated with competition for public business, but it is by no means the most iniquitous form of corruption experienced in Zimbabwe. The following section deals with insidious practices that may be described as preparatory to bid-related corruption. Including these practices in a study of corruption might appear irrelevant, even controversial, as the current anti-corruption law does not directly proscribe them. However, one cannot begin to deal effectively with cross-sectoral corruption without identifying and combating its roots.

#### IRREGULAR FINANCE MOBILISATION

The mutual quest to access finance has resulted in a significant blurring of the distinction between the public and private sectors in Zimbabwe. The public sector exerts a great deal of influence over the decisions and activities of the private sector. One of the reasons for this is that the ruling party has interests in some private and quasi-private institutions that are involved in business transactions with public entities. In consequence, it functions in both sectors, employing a combination of formal and informal instruments.

A widely reported case involved the National Social Security Authority (NSSA), a statutory body dedicated to mobilising and investing public pension funds. ZANU(PF) has a 25% shareholding in the First Banking Corporation, held through the party's commercial arm, ZIDCO Holdings. In the mid-1990s the party started pushing an economic indigenisation programme, partly through state machinery and partly outside of the state. One of the strategies used was to buy shares in private corporations and in public corporations earmarked for privatisation. The bank was employed as a vehicle to advance the programme. In 1998 it purchased more than eight million shares in Bindura Nickel Mine for Z\$280 million, on behalf of an indigenisation committee formed by the government. The bank was then required to 'warehouse' these shares, presumably for resale to indigenous entities later. The aspirations of the bank and the committee were not realised, as by mid-2000 it was clear that there would be no indigenous groups or individuals to take up the shares. In fact, the bank started putting pressure on the committee to liquidate its indebtedness, which was rising with the accrual of interest. The committee targeted the NSSA as a possible destination for the shares. The Minister of Labour and Social Welfare, as political administrator of the NSSA, was directed to get the NSSA on board. In spite of the objections of the management and the board of the NSSA, the authority eventually acquired the shares at a price of Z\$28 each. The market

price was Z\$23 at the time. The share price subsequently fell dramatically, resulting in a loss of some Z\$56 million. The objections of the general manager and the board precipitated the former's suspension and the board was replaced soon afterwards.

After the NSSA saga, it appears that a cartel of local entrepreneurs with the patronage of the ruling party targeted other pension funds as sources of capital for selected investments. Notable among them are the Mining Industry Pension Fund and the Local Authorities Pension Fund. The usual strategy employed is to gain influence over the board administering the affairs of the pension fund, which is relatively easy owing to the role of sponsoring politicians. Having achieved this, the cartel then sets about diverting funds to particular projects and companies. Occasionally this entails hostile takeovers of companies perceived to be opposed to the interests of the ruling party, but the objective is to extend influence over strategic sectors of the economy.

Another objective is to position members of the cartel, or the principals, to participate in the privatisation process. The pace at which the cartel mobilises finance has become an important determinant in the pace of privatisation in Zimbabwe.

Given the motivation behind the activities of the empowered cartel, and the control that government has over the process of privatisation, it is not surprising that a substantial amount of nepotism and preferential treatment underlies the processes of privatisation and public procurement, under the guise of indigenisation or 'South-South cooperation'. Conflicts of interest, which are inimical to good corporate governance, are common. The membership of the boards of various financial institutions over which the government exerts patronage reveals much about the composition of the cartel and the inherent conflicts of interest.

#### LINKS WITH STATE FUNCTIONARIES

Links with state functionaries are self-evident. As indicated above, the intimate involvement of important political figures in business, officially and informally, has a weakening effect on the will and capacity of government to resist corruption. In spite of the occasional official inquiries into corrupt conduct in the public sphere, and judicial exposures and condemnation, Zimbabwe is relatively highly tolerant of deviance in public office.

## POLICE PERCEPTION

Corruption is regarded by the police as prevalent in both the public and private (business) sectors. An estimate given in April 2001 was that Z\$30 billion (US\$5.45 million) changes hands in corrupt transactions annually in both sectors. The police do not seem to be aware of the extent to which organised criminal syndicates are involved in corruption in Zimbabwe, although there is awareness that a high proportion of corrupt transactions involve functionaries at senior levels of government.

## Conclusion

No detailed conclusions can be made at this stage as this is still a work in progress. What has emerged is that there are vast areas in which criminal activity is occurring but about which information still has to be gathered and analysed.

## PART II: PENETRATION OF FORMAL SECTORS

### Introduction

While there have been frequent references to linkages between the activities of organised crime syndicates and the formal sectors of society in Zimbabwe in the first part of this report, there is little analysis of the nature of the relationship, if any. This section seeks to establish whether such a relationship exists and if so, whether the formal sectors have been penetrated by organised criminal groups on account of it.

### The concept of penetration

The concept of penetration of one structure by another lends itself to a variety of meanings. It may be convenient to use the term 'predator' to represent the penetrating phenomenon, and 'victim' for the targeted structure. The concept could mean the takeover of the victim sector by the predator, to the extent that the former serves the latter on demand. But penetration may also mean attaining a transient influential relationship, on an *ad hoc* but predictable basis. Between these two extremes, one could also attribute to the concept the infiltration of agents and members of the predator into the victim sector, to gather

and pass on strategic information. In this part of the report, the concern is with the formal sectors as potential victims, and organised crime syndicates as predators.

The formal sector comprises the state and its structures, basic and subsidiary. This conventionally comprises the central executive, the government bureaucracy, the legislature, local authorities, the judiciary, and the statutory corporations. The formal sector also includes the organised (rather than informal) private sector, in its various productive segments—agricultural, mining, manufacturing, retail and the service professions. It also includes the media, although it is debatable whether it should incorporate civil society groupings.

### Why penetrate the formal sectors?

Collectively, the segments of the formal sector constitute both the context and the market place in which commodity exchange and profit-making occur. Organised crime is spurred to sustain its existence by business opportunities and economic considerations. Formal sector institutions influence both the existence of opportunities and the level of risk involved in exploiting them. One of the functions of any government is to prevent or control illegal activities. If that role is performed effectively, there is bound to be conflict with organised crime.

Organised crime uses infiltration of the formal sector as a standard practice to blend into society's decision-making structures. The public sector is a regulator and a source of patronage (and therefore business opportunities), whereas the private sector offers opportunities to blend legitimate and illegitimate business so as to disguise the latter and to launder illegally obtained assets. Examples from the developed and developing countries illustrates that the executive, legislative and law enforcement branches of the state are particular targets for infiltration.

It is in the interest of organised crime to identify and exploit opportunities and to minimise risks. Evading government efforts to control illicit activities may not always be a simple matter—hence the need to extend influence over the public sector, so that a certain amount of activity can occur with impunity. Corruption is the most visible method relied on by organised crime to penetrate the public sector. Studies have shown that alternative methods, such as resorting to violence and blackmail, are used only if corruption is unsuccessful.

## Typology of linkages between organised crime, corruption and the public sector

An assessment of the situation in Zimbabwe should be preceded by a brief typology of linkages between organised crime, corruption and the public sector. The analysis below draws on the work of the UN Office for Drug Control and Crime Prevention.

The relationship between organised crime and public sector corruption has been identified at five levels. The first level consists of simple bribery on an isolated basis. The second level consists of repeated acts of bribery, where the corrupted person is regarded as if they are on the payroll. At the third level, organised crime infiltrates government institutions. The fourth level involves the infiltration of higher levels of government, beyond the bureaucrats, while at the fifth level organised crime infiltrates the political arena or key components of the political system.

First level influence involves the organised criminal syndicate and a single public officer who occupies what the syndicate perceives to be a strategic position. It may even be initiated by the officer, and involves bribery in order to irregularly obtain a document such as a passport, or a service such as a telephone line. The commodity acquired is of high utility value in opening avenues to make money through crime, or to evade apprehension.

The second level is more common and is a development (or degeneration) from the first. Acts of bribery become continuous, as both parties acquire a stake in the continuation of the relationship. The corrupted officer becomes addicted to receiving bribes and appreciates the importance of sustaining the safety of the source of bribes. From the perspective of the briber, the flow of information is continuous and a measure of protection from law enforcement is assured. In the case of border control, this may take the form of uninterrupted entry and exit. In the sphere of procurement of goods and services, the briber is guaranteed earnings from poorly performed work or work not performed at all. The public officer at this level of penetration is usually of a relatively low rank, but occasionally higher ranked officials may also be hooked.

At the third level, infiltration occurs in various forms. One takes the form of entry into functional—though not necessarily the top—levels of relevant departments of the public sector by members of organised crime syndicates or their friends/close relatives. Law enforcement agencies are not the only departments affected; in some countries the prosecution, revenue and judicial

services have also been infiltrated. Organised crime syndicates have been known to 'sponsor' members to enter the public service or even to 'buy' jobs for them. Highly placed functionaries can be bribed or blackmailed to hire such members.

The fourth level of infiltration may or may not evolve from the third. It manifests itself through the occupation of the commanding heights of formal sector entities either by members of organised crime syndicates, or by compromised individuals, either of which can enable the syndicates to control decisions and even policy-making. Major decisions are taken outside formal institutions, in secret caucuses, and imposed on the former. Where rules and processes impede either the functioning of the syndicates or decisions favourable to them, they are likely to be ignored or circumvented. Typical areas of infiltration are tender processes for procurement, law enforcement and revenue collection. Operatives infused into formal sectors during third level infiltration, who have ascended to higher positions, may be used in this phase. In the absence of such people, organised crime will make use of connections with corrupt highly placed officials to manipulate decisions.

The fifth rung of infiltration is at a more fundamental level. To facilitate infiltration of lower levels, organised crime may find it prudent to corrupt the system in which policy- and decision-makers assume office. Funding political campaigns and parties is a common method, but bankrolling electoral malpractices, such as buying votes, can complement it. Organised crime syndicates can use media control to promote or discredit prospective political leaders. Syndicates need to be involved in licit business in order to get a foothold in the economy and to maximise opportunities for money laundering. Licit business can also be used in fifth level infiltration. Colombian syndicates are heavily involved in sport, especially football and gambling. Mafia families in Italy have also been linked to professional football in that country. In 1999, the Ministry of Internal Affairs in Russia estimated the number of commercial businesses under the control of organised crime in the industrial region of Sverdlovsk, east of Moscow, at 362.<sup>15</sup> Elsewhere in this work, Gastrow & Mosse report on the penetration of the business sector by organised crime in neighbouring Mozambique.

To answer the question of whether the public sector in Zimbabwe has been penetrated by organised crime, it is also useful to examine the factors that generally impact on vulnerability to penetration.

Zimbabwe is a state in transition, caught up in economic and social turmoil of traumatic dimensions. The direction of economic transition has oscillated from a command to a market economy and, apparently, back to a command

economy. Characteristic of the situation is what Bond & Manyanya (2002) call “uneven return to dirigist policies—e.g. exchange controls, a currency peg, luxury import tariffs (but followed by a regional free-trade agreement), foreign debt default, uncontrolled budgetary growth, negative real interest rates under conditions of desperation and capital flight”.<sup>16</sup>

At a social level there is a visible retrogression as poverty levels rise to scales last witnessed in the 1970s. The political turmoil of the early twenty-first century has exacerbated the crisis situation.

Professor Louise Shelley has identified some of the factors that influence the incidence of organised crime in transitional societies. She argues that transitions tend to create power vacuums in power structures, which organised crime may fill:

Alternatively, organised crime may exploit the weakness in the control apparatus—represented by the police, the courts and the security apparatus. In the change from a socialist to a market economy, significant property is transferred from (the) state to private hands. Organised crime groups will want to benefit from the process of privatisation and become key economic players in the new economy. The absence of controls in the society may also provide a hospitable climate in which organised crime groups, both local and foreign, can operate.<sup>17</sup>

### The vulnerability of transitional states

The features of a transitional state which engender a peculiar vulnerability may be summarised as follows:

- occurrence of a power vacuum;
- diminished social control, as reflected by no (or weakly enforced) laws against economic crime;
- greater mobility of personnel within the country and transnationally;
- corruption precipitated by declining wages, increased opportunities, diminished penalties and falling moral values;
- close linkage between political power and access to economic leverage; and

- imbalance in resources between the law enforcement structures and criminal organisations; leading to
- frustration of law enforcement functionaries, and their absorption by the private sector or by organised crime; and
- unbridled opportunism.

It may be argued that while these factors make it more likely than not that a country will be afflicted by organised crime, they do not necessarily render its formal structures penetrable by organised crime. Studies on the evolution of the linkages between organised crime and the state in the former Soviet republics of Russia and the Ukraine demonstrate the relationship between the incidence of the predisposing features and the probability of penetration. Admittedly the incidence and growth of organised crime in Russia predated the transition which commenced during the Gorbachev era, but that does not substantially detract from the strength of the causal nexus.

The political economy of organised crime in the Soviet Union also highlights the distribution of benefits between criminal syndicates and state bureaucrats. In their efforts to line their pockets, Soviet bureaucrats even resorted to extorting money from crime syndicates in exchange for protecting their illegal operations. This demonstrates the significance of a close linkage between political power and access to economic leverage. It also shows that the infiltration of the formal sector need not be, and is not always, at the instance of organised crime.

A study of the manner in which organised crime relates to the formal sectors in Zimbabwe suggests several patterns of possible infiltration. The most visible is the development of mutually beneficial personal and structural relationships between, on one hand, individuals and groups who occupy influential positions in the formal sector and, on the other, operatives from the private sector with a predisposition for corrupt behaviour.

The activities of fraud syndicates that target banks, using falsified identity data as described in the first part of the report, involve collusion with functionaries within the Ministry of Home Affairs, in particular the section responsible for issuing identity documents. The same kind of collusion facilitates the operations of drug dealing syndicates, which are engaged in the shipment of narcotics to South Africa and Western Europe. Some of the syndicates have foreign members. Since their advent in the mid-1980s, such syndicates have demonstrated an aptitude for integrating into the local community by clandestinely acquiring Zimbabwean passports.

Statistics on the extent of penetration of the kind under review are difficult to come by, as the police, the agency that would be expected to be the main repository, do not maintain any. Neither does the victim ministry. An additional factor is that many false Zimbabwean passports tend to be discovered in foreign countries, and there is little reporting between cognate agencies in different countries.

#### **Case study 7: A development ministry developing cronies**

The Ministry of Rural Resources and Water Development has been at the centre of several questionable transactions in the last decade.

The Auditor General (AG) found that the ministry awarded tenders for certain public works to an individual contractor without considering whether the contractor possessed the requisite capital resources and technical expertise for timeous completion of the projects. Some of the projects were for rural dam construction. In 1998, this resulted in the ministry incurring escalation costs amounting to Z\$57.7 million.

The ministry also guaranteed a loan of Z\$1.5 million by a favoured contractor from a government-aligned commercial bank without Treasury authority.

It also paid unsecured advances to the tune of Z\$7.2 million to the contractor of the three rural dams. The AG also found that the ministry had purchased “drought mitigation equipment” worth US \$27.2 million (Z\$751 million) for the District Development Fund (DDF). Equipment valued at US\$25.1 million (Z\$691.7 million) was missing from the government assets register, prompting the AG to report that he was “unable to determine whether all this equipment was properly accounted for”.

There were “ghost workers” in the ministry who benefiting from subsistence and travel allowances. The AG pointed out that the ministry had issued allowances to these unknown employees on 50 occasions in a period of 18 months. No investigation was done to identify the unknown employees.

#### **Case study 8: Land indigenisation sales—fronts and criminals in land scandal**

A ‘land for the boys’ scheme, which was administered by a veteran former African nationalist in 2000, came to grief when funds deposited to secure land allocations disappeared. The former politician,

Michael Mawema, ran the scheme along with one Ben Chisvo and an architect. They received deposits, ostensibly to get farms for aspiring back commercial farmers. According to Mawema, the scheme was known to, and supported by, government ministers. No receipts were issued on payment of the deposits and none of the prospective farmers was shown a map of the farms, presumably since they had not yet been surveyed and subdivided.

Almost Z\$7 million was paid into the scheme to buy cheap land from the government under the ‘fast-track’ land resettlement programme. Sums paid ranged from Z\$40,000 to Z\$100,000 per depositor, depending on the hectareage required. The money was supposed to be deposited into a dedicated bank account but was allegedly diverted to Chisvo’s building society account. Much of it was embezzled. At a meeting in September 2000, it was revealed that the account’s balance was just over Z\$100,000. It was further revealed that Mawema was on a national land acquisition committee chaired by Vice-President Joseph Msika. Mawema alleged that he had been assured by Minister Ignatius Chombo that farmers would be allocated land. The technical problem was the shortage of valuers to ascertain payments to dispossessed farm owners.

Shortly after the meeting, Mawema committed suicide. He disclosed in a suicide note that he had received commission for his part in the scheme, but claimed that he had also been betrayed.

#### **Case study 9: The Harare airport extension tender**

The tender to construct a new international air terminal at Harare airport became one of the most controversial issues of the 1990s. Estimated to cost Z\$5 billion, the tender attracted interests from various construction entities. On the basis of the prescribed criteria, the Government Tender Board awarded the tender to a consortium led by a French company, Airport de Paris. The decision did not go down well with influential members in central government, including President Mugabe and two of his senior ministers. Intense maneuvers to overturn the award followed, which included arm-twisting parliament to accede to a Cabinet decision to award the project to a little known company called Air Harbour Technologies (AHT), owned and run by one Hani Yamani, a Saudi national.

Connections between AHT and Zimbabwe's leadership came to light as a result of disagreements between Yamani and some of the key functionaries involved in the airport project. AHT's successful tender was brokered by President Mugabe's nephew, Leo Mugabe, acting together with Zidco Holdings, the commercial arm of the ruling ZANU(PF) party. Simultaneously with the construction of the terminal, AHT funded the construction of a private residence for the President by a Yugoslav company. Yamani donated US \$50,000 to ZANU(PF) and made payments to two senior cabinet ministers. It was undisputed that Energoprojekt, a Yugoslav company with offices in Zimbabwe, was constructing a plush residence for Mugabe in the up-market northern suburb of Borrowdale in Harare. By the time of its completion in April 2001, the airport terminal had cost more than Z\$7 billion.

In July 1999, Yamani complained to President Mugabe about excessive kickbacks. His letter was leaked to an independent newspaper, which published it in December 2000.<sup>17</sup> Following publication, the newspaper's printing works were destroyed by a massive explosive. No arrests have occurred, amid widespread speculation that state agents were involved in the bombing.

### Joint venture partnerships and trans-border enterprises

Central to organised crime endeavours is a continuous positioning to take advantage of opportunities arising as the economic transition evolves. The state, in the form of central government, bureaucrats, and the statutory corporate sector, is predominant in charting the direction and pace of the transition. Its functionaries are repositories of information on new opportunities and therefore better positioned than others to participate. The major problem seems to be the shortage of capital, which explains the attraction of joint venture partnerships.

Joint venture partnerships have been a prominent feature of the participation of state functionaries in private enterprise since the beginning of the 1980s. The selected partners tend to be foreign or to have strong foreign links, partly because of the weakness of the indigenous financial base. Foreign partners with the necessary skills and capital occasionally include criminals and black market experts. Once formed, the joint venture companies depend on government procurement for a large part of their business. Spheres of operation are carved out for them by a combination of strategies, which include protec-

tion from competitive tender processes, or bid rigging, or continued statutory monopoly schemes.

Their interests are safeguarded by the inclusion on their boards of members of the executive or state bureaucrats. Serving ministers sit on the boards of companies in which the ZANU(PF) party has a controlling stake. Among those identified by Transparency International is Zidco Holdings, created in 1979 as a joint venture between ZANU(PF)'s M&S Syndicate, and Unicorn, a UK-based import and export firm. M&S owns 55% of the shares and Unicorn holds the remainder.

Unicorn's chief executive, Chandra Patel, is the uncle of Jayant Joshi, Zidco Holdings' managing director. Emmerson Mnangagwa, the current Speaker of Parliament and Sidney Sekeramayi, a former Minister for Mines, represent ZANU(PF) on the board of Zidco Holdings. Manharlal Chunibai, Joshi's brother, and Dipak Champakal, a British national, represent Unicorn.

Zidco Holdings' subsidiary Catercraft provides in-flight catering services for Air Zimbabwe, and all other international carriers using Harare and Victoria Falls international airports. Another subsidiary, Jongwe Printers, prints Hansard (the official transcript of parliamentary proceedings) and old textbooks and other educational material used in schools.

Inside Zimbabwe, Zidco acquisitions include prime agricultural and commercial land, agro-business, banking, property management contracts, car and truck retail and engineering dealerships, gold, coal, copper, nickel, asbestos mining and blanket manufacturing and sales.

Through its involvement in First Banking Corporation and Oryx Diamonds, Zidco has established itself in the international arena where it is involved in cobalt, copper and diamond mining and timber exploitation. The ZANU(PF) party is indirectly involved in the southern African rail network in Zimbabwe, the DRC and Zambia.

The second manifestation of infiltration emerges from the inter-linked commercial dealings of the ZANU(PF) party top hierarchy, the ZDF and entrepreneurial elites with the Kabila regime in the DRC in the late 1990s and early 2000s. These dealings indicate the systematic use of official positions for private gain. Among the central participants was Harare transport magnate, Billy

Rautenbach, a close acquaintance of the Mugabe regime. With the assistance of Mnangagwa, Rautenbach became the chief executive of the DRC mining parastatal, Gecamines, from November 1998 to May 2000. Before and during his tenure, Rautenbach is reported to have acquired a number of concessions for cobalt mining in the Katanga Province. On his dismissal in May 2000, the Kabila regime accused Rautenbach of siphoning off profits to a fictitious legal entity. It subsequently emerged that Rautenbach was being sought by the South African authorities on allegations of US\$8.6 million worth of customs fraud and related charges of money laundering. His assets were seized and at the time of writing, their disposal was pending. Initiatives to secure Rautenbach's extradition from Zimbabwe were also underway.

Apart from economic activities directly involving the military, the DRC opened up opportunities for enterprises prepared to work with the military. The tale of a Harare-based trading company is illustrative. As Nest recounts:

The manager of a Harare based trading company offered a typical story of an enterprise working with the military. From January 1999 his company exported chemicals for processing mineral ores to Lubumbashi. Having learnt through counterparts of opportunities in the minerals sector, his company diversified into purchasing diamonds from the DRC and then became interested in gold. The company transported diamonds by air to Zimbabwe through Lubumbashi airport, which was guarded by the ZDF, and used military personnel as a cover to avoid Congolese customs. The company worked with one particular officer who received a commission of 5% of the diamonds' value for his service.<sup>18</sup>

The story reveals several activities that could easily be transformed into organised crime. To maximise returns, lawful cargo (chemicals) is transported up to the DRC and illicit cargo (diamonds and gold) makes its way south on the return trip. Customs regulations and inspections are evaded through the use of military cover, and if necessary, through bribery. The ZDF or its contractors would probably carry out the freighting.

The scale of involvement by the business sector in illicit minerals ventures in the DRC along the lines described has not been fully explored, but there is evidence of involvement by dozens of indigenous business personalities. There is also anecdotal evidence of money laundering and currency speculation traceable to dealings in the DRC.

## State response to infiltration by organised crime

The capacity of the state to detect and respond to infiltration by organised crime depends partly on the integrity and strength of its structures, particularly those responsible for law enforcement. The strength of law enforcement agencies, classically represented by the police, depends on their motivation as much as it is a function of resources. Both factors can be adversely affected by penetration by organised crime. Observations during the preparation of this report and interviews with officers within the police indicate a substantial weakening of law enforcement, which has arguably created a gulf between the law in the books and the law in practice. Part of the reason is the severe understaffing of the most relevant units of the police, such as the departments responsible for investigating serious economic crime and crimes involving precious stones.

The issue is whether the denudation of resources can be attributable to organised crime. There is no evidence of a direct link, but a campaign by police management has been detected, aimed at removing from the police ranks officers whose allegiance to ZANU(PF) is considered to be questionable. The head of the police is an active member of ZANU(PF), who has pledged to defend the party and its leadership. It is not surprising that the police force in Zimbabwe is a patently partial entity, incapable of facing up to patronage-related corruption. Police inaction during the extortionate invasions of corporate institutions in the first half of 2001 is pertinent in this regard. Police preoccupation in Zimbabwe is with restricting the space for democratic participation. The spate of arrests of journalists, in particular, in the first quarter of 2002, is merely the most recent illustration of this reality.

## The extent to which the non-state sector has been penetrated by organised crime

The private sector comprises an amorphous range of enterprises in production, manufacturing and provision of services, both retail and professional. The multi-layered mode of penetration relevant to the public sector can be applied to the private sector as well, with modifications that take account of structural differences. The first four of the five levels of penetration can be replicated in the private sector.

In discourse about private sector penetration by organised crime, it may be necessary to keep in mind the distinction between what may roughly be described as blue-collar organised crime and white-collar organised crime.

Blue-collar (which is usually accompanied by violence, but just as systematic as any other) organised crime penetration of the formal private sector usually manifests itself in the incidence of crimes facilitated by the use of information, access to which is restricted to a limited number of persons inside the targeted institution. These tend to be employees or former employees. The Norman Karimanzira armed robbery, outlined in the first part of the report, is representative, involving security company personnel and outsiders.

The evidence relating to this is anecdotal, as the number of private sector organisations surveyed in this study was too small. The information indicative of infiltration is derived from investigated cases, as well as cases under prosecution.

As a general observation, one should point out that none of the investigated incidents of armed robbery of motor vehicles reported in 2001 were found to involve collusion with 'victim' drivers. It is estimated that less than 15% of those reported in 2000 involved collusion between criminals and apparent victims. In every instance the direct victim was an employee of a corporation.

What has proved to be more worrying in transitional societies is the threat of infiltration by white-collar organised crime. All spheres of the private sector are vulnerable, but particular concern has tended to be expressed about the financial services sector. This could be attributed to the potential for this sector's use in the infiltration of other spheres. It could also be abused to commit organised crime, for instance money laundering.

The emergence and somewhat rapid collapse of the Boka empire, (profiled in the first part of this report) revealed the ease with which syndicated crime can establish itself within the formal corporate sector. The identifiable ingredients in the Boka saga included:

- political patronage, which assisted in the granting of a licence to enter the financial services sector, to operate a commercial bank, and to gain access to lucrative, government supported CSC business;
- high level contacts, which facilitated externalisation of funds in foreign currency;
- weak supervision by the Reserve Bank, which ensured a sluggish detection and reaction to the irregularities and impending collapse;
- a non-existent or dysfunctional legislative framework against money laundering, which allowed the unchecked externalisation of funds and the abuse of a lawyer's trust account to facilitate the same; and

- an investigation system vulnerable to the whims of the executive, in the form of provisions of the Prevention of Corruption Act which could permit the Minister of Justice to usurp police functions.

Parallels can be drawn between the Boka collapse and similar developments surrounding the collapse of Bank Austral in Mozambique. Subsequent to the demise of the UMB, the governor of the Reserve Bank of Zimbabwe lamented the bank's lack of licensing authority. The power is vested in the Ministry of Finance and Economic Planning. The governor stated that he believed that only an entity autonomous of central government could counter the influence of political patronage.

The UMB collapse also highlights the potential role that could be played by professional service providers such as lawyers to facilitate money laundering. The incidence of abuse of trust accounts in the way exposed in the UMB case has yet to be explored. To what extent are the service professions under the influence of organised crime?

The potential for systemic, symbiotic relationships between the professions and organised crime syndicates cannot be gainsaid. Lawyers and accountants are among the most vulnerable professions in this respect. The English case of *AGIP (Africa) Limited v Jackson & Others* (1990) 1 Ch. 265 highlights how an accountancy firm can play a prominent role in laundering proceeds of crime. The facts were summarised in an undated symposium paper by Mitchell, Sikka & Willmott.<sup>19</sup> In view of its illustrative value, the summary is quoted here in full.

#### Case study 10: The Agip case

"In the late 1970s and early 1980s, AGIP (Africa) Limited, a company incorporated in Jersey, was engaged in drilling for oil in Tunisia, on its own behalf and in joint ventures with other companies under permits and concessions granted by the Tunisian Government. The Tunis branch held a US dollar account at Banque du Sud from which overseas suppliers were paid. Over a period of many years (from 1976), both before and after 1983 when accountants Jackson & Co. became involved in the matter, AGIP was systematically defrauded of millions of dollars by its chief accountant, a Mr Zdiri. Though not a director of the company or a signatory of any bank account, he was responsible for collecting invoices and matching them to the completed payment orders



prior to obtaining approved signatures for the same. He was also responsible for banking. Mr Zdiri used his position to misappropriate the funds by altering the name of the payee on the payment orders after obtaining authorised signatures.

The court heard that between March 1983 and January 1985, Mr Zdiri defrauded AGIP of US\$10.5 million by altering some 27 orders that found their way to England. The payees were all companies registered in England and managed by Jackson & Co., based in the Isle of Man. Seven different companies, each holding a US\$ account at a major branch of Lloyds Bank (a major British bank) were used in succession to receive the monies. However, AGIP did not bring a criminal case for fraud or even a case for the recovery of US\$10.5 million or anything (said to be in excess of \$17 million) dating back from 1976. Instead it took civil action under 'law of trust' to recover only the sum of US \$518,822.92 (being the last of the diverted monies), paid on 7<sup>th</sup> January 1985 to Baker Oil Services, on the ground that this was all that Jackson & Co. could reasonably afford to repay.

The case was defended by Mr Barry Jackson and a Mr Edward Bowers, who practiced as chartered accountants in Douglas, Isle of Man, under the name of Jackson & Co. The third defendant, a Mr Ian Griffin, was an employee of the firm. Jackson & Co., it transpired, were acting on the instructions of a French lawyer, Monsieur Yves Coulon, who in turn was acting for principals whose identity was not known. The court noted that Jackson & Co. was introduced to the prevailing arrangements by Roger Humphrey of Thornton Baker (now Grant Thornton) who also provided the payee companies. Each of the companies had a nominal share capital, which was usually registered in the names of service companies provided by Jackson & Co. In each case, Mr Jackson and Mr Griffin were the directors and the authorised signatories on the company's bank account. None of the companies had any assets or carried on any genuine business activity. In the case of each company, except that of Baker Oil, after two or three payments had been received and paid out, the account was closed and a new account opened for the successor company. Its predecessor was then put into liquidation and either Mr Jackson or Mr Bowers were appointed liquidator. All bank statements of the payee companies' showed the receipts to be derived from payments made by AGIP.

When the payee company received a payment, it was immediately transferred, usually on the same day, to another company, Euro-Arabian Jewellery Limited, which also maintained a US dollar account at the same branch of Lloyds bank. Euro-Arabian was registered in England with Mr Jackson as one of its three directors. Jackson, Humphrey and Griffin were the authorised signatories of its bank account, with the agreement that either could act as a signatory in his own right. There was no evidence to show that Euro-Arabian carried on any genuine business activity. As soon as it received any payment from a payee company, it paid it out to parties located abroad. Most of the money went to Kinz Joaillier SARL, incorporated in France, which appeared to be a subsidiary of Euro-Arabian Jewellery. Mr Jackson was a director of the company with Yves Coulon acting as its legal adviser. Coulon had no authority to operate the bank accounts of any of the payee companies or Euro-Arabian, but the bank's assistant manager, a Mr Breeze, was authorised to disclose information about the accounts to him. Indeed, Coulon visited the bank during his travels to London and lunched with Breeze who believed Coulon to be the man behind all the arrangements. Breeze was told to expect payments of about US \$500,000 per month from Tunis. When a payment was expected, he would be notified by Jackson & Co. Upon receipt of money, he would telephone Jackson & Co and inform them that the sums had been received. After a short interval, but usually on the same day (presumably after instructions from someone e.g. Coulon), upon Mr Jackson's instructions, the monies would be paid out.

The case brought by AGIP centred on a payment to Baker Oil. Baker Oil had authorised share capital of £2,000 with two shareholders and bank signatories who were also its directors. Mr Jackson and Mr Griffin held the entire issued share capital of £1 each. Baker Oil opened a US\$ account at the same London bank branch on 17<sup>th</sup> December 1984. Just a day later, a Mr Del Sorbo, an AGIP official had signed a payment order of US \$518,802.92 in favour of Maersk Supply (Tunisia) Limited, payable at Morgan Guaranty Trust Company of New York. After the signature, the payment had been altered and made payable to 'Beker-Service Cie' with the address of the London branch of Lloyds Bank and the correct number of Baker Oil's dollar account. The altered payment order was executed by Banqu du Sud on 7<sup>th</sup> January 1985. Jackson & Co. had already told Lloyds Bank to expect a payment and asked to be informed of its arrival. On 7<sup>th</sup> January Mr Del

Sorbo also became aware of the fraud as he visited Banque du Sud. He asked the bank to stop the payments, but due to time differences between London, Tunis and New York, payments had already been made and could not be reversed.

The sum of US\$518,822.92 was credited to the account of Baker Oil and then transferred to the account of Jackson & Co, held at the same branch of Lloyds. Baker Oil's account was immediately closed. These transactions were confirmed in a letter to Baker Oil. On 9<sup>th</sup> January 1985, the same amount was transferred to Jackson & Co's 'Client's' account at the Isle of Man Bank Limited. On 15<sup>th</sup> January, most of the amount was paid out from this bank account to Kinz Joaillier SARL. Subsequently, Baker Oil, Euro-Arabian and Kinz were all put into liquidation. AGIP brought proceedings in Tunisia against Banqu du Sud and also sought to recover US\$518,822.92 from Baker Oil (which no longer existed) and Jackson & Co.

During the court case, Jackson & Co. called no evidence, therefore, the court attached considerable importance to some documents presented to it. One of these related to the minutes (dated 22<sup>nd</sup> March 1984) of the first meeting of Keelward Limited, another of the payee companies. The minutes noted that 'the receipt of monies from Tunisia...formed part of a long-standing arrangement...the arrangements resulted in the extraction of monies from Tunisia in circumvention of the Tunisian Exchange Control Regulations.' In another document, a letter (dated 14 August 1984) addressed to Mr Jackson by a firm of solicitors noted that 'Agip may be able to establish a cause of action by claiming that the payments were obtained by fraud. Agip could also rely on English law as the fraud would presumably have taken place within England, at the time when monies were transferred out of Agip's account into the account of the UK company...although Agip may be able to establish a cause of action, it would still be necessary for Agip to establish fraud (as defined under English law) for any action for the recovery of the monies to be successful...Because of the general principle of banking confidentiality, it would be extremely difficult for the Tunisian Government or Agip to obtain an order requiring Lloyds Bank to disclose banking transactions, unless disclosure is ordered by the English Courts'.

On 19<sup>th</sup> May 1989, Mr Justice Millett read out the judgment in the Chancery Division of the High Court, and concluded:

'Mr Jackson and Mr Griffin knew...of no connection or dealings between the Plaintiffs and Kinz or of any commercial reason for the Plaintiffs to make substantial payments to Kinz. They must have realised that the only function which the payee companies or Euro-Arabian performed was to act as "cut-outs" in order to conceal the true destination of the money from the Plaintiffs...to make it impossible for investigators to make any connection between the Plaintiffs and Kinz without having recourse to Lloyds Bank's records; and their object in frequently replacing the payee company by another must have been to reduce the risk of discovery by the Plaintiffs...Mr Jackson and Mr Griffin are professional men. They obviously knew they were laundering money...It must have been obvious to them that their clients could not afford their activities to see the light of the day.' Judgment was accordingly given in favour of AGIP."

The study found no reported instances of involvement by accountants in money laundering along the AGIP lines in Zimbabwe, although there appeared to be scope for it. There are indications of penetration of the estate agents profession by organised crime. At the time of writing the case involving Kay Makhela (Metof Investments) was unresolved. His agency was one of several implicated in the sale of non-existent residential property.

Zimbabwe is a significant transit point for cannabis and South Asian heroin, mandrax, and amphetamines destined for the South African and European markets.<sup>20</sup> In respect of cannabis, the country is also a source and major consumer. Transit is by air and by road, on vehicles run by legitimate business entities. Although there have been a few incidents involving the discovery of narcotics on long haul vehicles and on one occasion on a cargo plane, there has not been sufficient evidence to impute knowledge by the company concerned of the conveyance of drugs. Invariably, the drivers of the vehicles have taken responsibility. In cases where they have implicated third parties, these have tended to be unconnected to the employer. It cannot be said that the transportation industry has been penetrated by organised crime, although regular use is made of its vehicles.

## Notes

1. Matrofski & Potter, Controlling organised crime: A critique of law enforcement policy, *Criminal Justice Policy Review*, 2(3), 1987, pp 269–301.
2. Based on an interview with the liaison and training director of the Anti-Hijack Trust, Rachel Gaka, in March 2002.
3. See P Gastrow, *Organised crime in the SADC region: Police perceptions*, Institute for Security Studies (ISS) Monograph Series 60, ISS, Pretoria, 2001, p 42.
4. F Msutu, Responses to organised crime in SADC: Interpol and SARPPCO, in C Goredema (ed), *Organised crime in Southern Africa: Assessing legislation*, ISS Monograph Series 56, ISS, Pretoria, 2001, pp 13–24.
5. It was disclosed to the writer during a visit to Harare in early April 2002 that the charge against one of the accused had been dropped.
6. Collin Wilbesi, PTC spokesman, quoted in the *Daily News*, 10 January 2001.
7. See the *Zimbabwe Independent*, 22 February 2002. It was reported that a ZDF company, the Minerals Business Company (MBC), was bringing diamonds from the DRC into Zimbabwe. False certificates of origin obtained from South Africa facilitated export to major centres.
8. Public-private partnerships guidelines for best practices are accessible at <[www.gov.nb.ca/0158/reports/protocol/protocol.htm](http://www.gov.nb.ca/0158/reports/protocol/protocol.htm)>.
9. Public-private partnerships should be based on the following principles: (1) a clear project definition; (2) competitive private sector market; (3) shared rewards, with the public receiving value for money, and the private sector a fair return on its investment; (4) allocation of risk to the partner best suited to assume the risk; (5) fair and transparent procurement processes; (6) a signed contract; and (7) proactive, ongoing and transparent communications to keep people informed.
10. In the words of the UN panel of experts, the revenue from these ventures has not had a positive impact on Zimbabwe's weak economy because "Zimbabwe's holdings in the Democratic Republic of the Congo seem to be controlled by top military and party officials who are also the direct beneficiaries". United Nations Security Council, *Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of the Congo*, 16 October 2002, <[www.reliefweb.int](http://www.reliefweb.int)>, p 5.
11. Ibid. p 17.
12. The Mining Commission of Zimbabwe stated that all gold sales should be processed by the Reserve Bank, but an unquantified amount of gold, estimated to be as much as a third of annual production, appears to be diverted and smuggled out of Zimbabwe.

13. Jens Chr. Andvig & Odd-Helge Fjeldstad (eds), *Corruption: A review of contemporary research*, No 268 NUPI report, Oslo: Norwegian Institute for International Affairs (NUPI), 2001, pp 10–11.
14. Report of the Commission of Inquiry into the Administration of the War Victims Compensation Act (Chapter 11.16), Government Printer, Harare, Zimbabwe, 1998.
15. J Finckenauer & Y Voronin, *The threat of Russian organised crime*, US Department of Justice, 2001.
16. P Bond & J Manyanya, *Zimbabwe's Plunge*, University of Natal Press, 2002, p 2.
17. L Shelley, Transitional states and organised crime, paper delivered at the Second World Conference on Modern Criminal Investigation, Organised Crime and Human Rights, Durban, 3–7 December, 2001, pp1, 2.
18. M Nest, Ambitions, profits and loss: Zimbabwean economic involvement in the Democratic Republic of the Congo, *African Affairs*, 100, 2001, p 484.
19. A Mitchell, P Sikka & H Willmott, Sweeping it under the carpet: The role of accountancy firms in money laundering, no date, <[www.members.tripod.com/~orgcrime/genmluk.htm](http://www.members.tripod.com/~orgcrime/genmluk.htm)>.
20. Simon Baynham, *Southern Africa's role in the illegal drug trade in Southern Africa: International dimensions to a local crisis*, SALLA, Johannesburg, 1998, p 110.



Source:

University of Texas at Austin, UT Library Online, <[www.lib.utexas.edu/maps/africa/botswana\\_pol95.jpg](http://www.lib.utexas.edu/maps/africa/botswana_pol95.jpg)>.

Accessed 27 May 2003.

## CHAPTER 2 BOTSWANA

Gideon Nkala

### Introduction

In the past few decades, Botswana has earned praise as a model democratic country whose values should be emulated by its neighbours in Southern Africa. With a relatively small population, the country has apparently managed to steer its economy towards success and has also maintained a monetary system whose currency is the strongest in the region. Despite the fact that Botswana's contribution to the overall Gross National Product of the 14 member states of the Southern African Development Community (SADC) is relatively small, the country is one of the celebrated success stories of sub-Saharan Africa.

A lucrative beef export industry linked primarily to European markets and a thriving diamond mining industry form the cornerstones of Botswana's economy. However, the latter has been in something of a crisis since January 2001, when South Africa's diamond giant, De Beers, announced its intention to delist from the Botswana Stock Exchange and ultimately move away from controlling global diamond production and instead establish a luxury-goods brand name. In addition, Botswana's flagship manufacturing enterprise, the Hyundai vehicle assembly plant established in the mid-1990s, ceased operating in January 2000 because of the liquidation of its South African parent company.

Despite a relatively stable political and economic fabric, Botswana is faced with serious problems that may severely undermine the development achieved so far. The first is the threat posed by HIV/Aids. National population censuses are conducted in Botswana every ten years and at the last count, in 1991, the population was 1.7 million, an increase of 41% since the 1981 census. Annual population growth, which was 3.5% in the period between these censuses, is now forecast at 2.2% by the United Nations and at 2.5% by the government, owing to the decline in fertility associated with more effective family planning and to the spread of HIV/Aids. A United Nations report estimated the incidence of HIV/Aids in Botswana in June 2000 at 35.8% of those aged 15–49 years—the highest rate in the world. The Economist Intelligence Unit estimates that Botswana has the highest death rate from natural causes in the world. There is a significant correlation between the estimates of the UN and the Economist Intelligence Unit, suggest-

ing that the country is experiencing a major social crisis. In response, a National Aids Prevention and Control Programme has been established, and a National Aids Committee promotes preventive measures among the population. A 1999 report of the United States Bureau of the Census estimated that, as a result of HIV/Aids, life expectancy in Botswana may decrease from a peak of 63 years in 1991 to only 29 years in 2010.

The second prominent threat is the burgeoning industry of organised crime. For a country widely seen as a bulwark of democracy and economic stability, organised crime and corruption pose a formidable danger. At a time when much of the region is battered by war, civil strife, and political and economic instability, Botswana's economic prosperity makes it a relatively attractive destination in the region. However, the influx of people into Botswana has unfortunately exposed the country to the hazards of organised criminal activity, which transcend boundaries. At worst there is the danger that the country may become a haven for very potent criminal organisations. It has been argued that the geographical location of Botswana makes it easy for organised criminal groups to use the country as a transit point for conveying illicit commodities from sources to markets. As a neighbour of South Africa, the largest source and the biggest regional market for a variety of criminal enterprises, Botswana is naturally vulnerable. Illegal drugs, mostly acquired in the East, are transported to South Africa along routes that sometimes include Botswana, and stolen goods from South Africa destined for countries to the north occasionally pass through Botswana with the aid of local criminal syndicates.

Organised criminal activity in the region is enhanced by the high level of unemployment, which encourages many people to make a living dishonestly. Various structural adjustment economic packages emanating from the World Bank and the International Monetary Fund have tended to worsen rather than improve the general living conditions in the region, including Botswana. As a region, Southern Africa remains a poor performer economically.

Botswana is landlocked and this has many implications, the most prominent being the difficulty of policing all its borders—especially in a region where borders are still widely perceived by affected communities as artificial colonial impositions. In many instances international frontiers separate people of the same ethnic group and they are thus generally ignored, especially if travellers are required to go through the cumbersome process of obtaining visas or permits. Migration regulation within the region is a difficult if not impossible task. As a result, various transactions take place outside the purview of frontier con-

trol and revenue officials. Botswana shares borders with four other countries in the region: Zambia and Zimbabwe to the north and north-east, South Africa to the south, and Namibia to the west and north.

## Organised crime and corruption

There are as many definitions of corruption as there are forms of the phenomenon itself. By general agreement, however, corruption takes place when government officials receive payment or reward for granting a service of some kind.<sup>1</sup> In Joseph Nye's comprehensive definition, corruption is behaviour:

which deviates from the formal duties of a public role, because of private-regarding (personal, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence. This includes such behaviour as bribery (use of a reward to pervert the judgement of a person in a position of trust); nepotism (bestowal of patronage by reason of ascription relationship rather than merit); and misappropriation (illegal appropriation of public resources for private-regarding use).<sup>2</sup>

In criminology the analysis of corruption mostly involves the study of state crime, white-collar crime, and organised crime, and their regulation. The clandestine financing of political parties, for example, normally requires the use of bribes, kickbacks, and other forms of payoff.<sup>3</sup> These practices, and activities such as tax evasion, fraud, undeclared slush funds, and planned bankruptcies, are prevalent throughout the world and governments commit enormous resources in attempts to curb or at least limit them. It would be naïve to assume that they do not exist. In many African countries the state and state institutions are not highly developed or well established and the state thus tends to be an empty shell. Explanations of this behaviour largely attribute it to social and cultural factors. Ultimately, in most African countries, the real business of politics is conducted informally and stealthily, outside the official political realm.<sup>4</sup>

Explanations of corruption in sub-Saharan Africa fall into two main groups. Firstly, there are continuity theories that explain contemporary corruption through centuries-old practices of exchange. According to these theories, some of the forms of behaviour that are considered corrupt in the West are in fact acceptable in terms of the norms and standards of African tradition and custom. Secondly, corruption in Africa is explained through theories of rupture. The underlying premise here is that corruption is a modern development caused by the erosion of ancestral values during the colonial period and immediately after independence.

Corruption can also be explained, according to Chabal & Daloz, as a key aspect of the instrumentalisation of disorder, that is, the process whereby political actors seek to maximise their returns in the confusion, uncertainty and sometimes chaos that characterise many African polities. Differently put, uncertainty, which normally obtains in politically unstable environments, is a key factor for corruption to thrive. Though there is an element of generalisation in these causal explanations of corruption, they have come to be accepted, at least in the West, as the reality of most African polities.

Other commentators, perhaps unable to identify the origins of the phenomenon of crime, have described it as being as old as mankind. History is replete with communities that viewed crime with abhorrence. Matsheza<sup>5</sup> observes that crime has tended to advance in parallel to the development of nations and societies—as the latter have become more complex and sophisticated through globalisation, so crime has also become more complex. As a result there is a worrying trend of ever more sophisticated and organised forms of criminal activity undermining formal legitimate institutions and moral codes of behaviour.

Of particular concern today is the menacing danger of organised criminals operating in increasingly ruthless syndicates. Globalisation and advances in information technology seem to have given organised crime a new lease of life. Although technology has aided and reinforced social advancement, there is a general consensus that it has benefited organised criminals considerably. Various scholars and commentators, although welcoming technology as an essential element in the detection of, and fight against, organised crime, concur that the very tools that are employed to combat illicit activities are often used to commit crimes. Thus, technology developed for beneficial purposes often has unintended uses. In the SADC region crime may not be as sophisticated or prevalent as in the developed world, but it is a cause for growing concern.

## Botswana

President Festus Mogae of Botswana, talking about the phenomenon of crime, defined it as a cancer that eats at the moral fibre, the economic resources, and the political responsibility of a nation. Transparency International has reported that Botswana is the least corrupt country in the region. Some have interpreted this to mean that corruption and organised crime do not exist in the country. However, investigations for this study revealed organised criminal activity and corruption, justifying the views about the growth of organised crime in Botswana held by the local chapter of Transparency International, the Di-

rectorate on Corruption and Economic Crime (DCEC), the Botswana Police, the Auditor General, and the office of the Ombudsman. In addition, the print media are full of reported instances of corruption and organised crime.

Organised crime and corruption in Botswana take the following forms, which are discussed in more detail below: evasion of customs duty, motor vehicle theft, drug trafficking, fraud, immigration fraud, and procurement corruption arising from government tenders.

### *Evasion of customs duties*

This activity is facilitated by collusion between some employees of the Department of Customs and Excise and various courier firms.

The courier firms are engaged by companies and organisations in Botswana to collect their goods, documents and commodities, usually from South Africa. The couriers clear all the customs obligations and are eventually paid by their clients for the services rendered. However, they have clandestine arrangements with certain individuals in the customs department at the border posts, particularly the major border gates at Tlokweng in the south-east and Ramatlabama in the south.

When the couriers bring consignments from South Africa it appears they have a standing arrangement with officials either to evade the proper immigration formalities or to undervalue dutiable goods and commodities. Customs declaration forms are handed to selected officials, who do not enter the forms but retain them and later ensure that they are not introduced into the department's systems. Courier employees invariably deal with the same officials in order to evade taxes and duties. Ultimately the national treasury and the Southern African Customs Union lose large amounts of revenue to these syndicates.

Recently the courier industry has grown considerably, encouraging some employees to leave and establish new companies, thereby extending the tentacles of the syndicate. The growth in the courier industry has in a sense been artificial, since many of the new companies still owe allegiance to the established infrastructure of the 'parent' company and share its network of connections. A former employee of one of the companies maintains that "most of the ... employees are not aware of its relationship with the officials and even the company's clients do not know about it". The network brings together corporate senior management, mainly of Asian (Indian) origin, strategically positioned senior officials at the Botswana customs offices, and a few officials on the South

African side of the border. It is thus, in a sense, a transnational organised crime syndicate.

There are unsubstantiated claims that the syndicate is also involved in bringing foreign currency into the country illegally, in contravention of the Customs and Excise Act.

Penetration

While the courier companies seem to be ever-present, particularly at Tlokwen and Ramatlabama, it is clear that knowledge of the fraudulent activities is confined to a group of individuals. Quite clearly the Customs Department’s top brass and even the general workforce are not party to the clandestine deals with the courier companies. At the time of writing this report, there were indications that the activities of the courier companies were the subject of an investigation.

Motor vehicle theft

The role of organised crime in the theft of motor vehicles in Botswana has been acknowledged at the highest level. Addressing the 16th Interpol African regional conference in Botswana in July 2001, President Festus Mogae stated that the theft of motor vehicles had increased and all indications were that unrecovered vehicles had been stolen by organised criminal syndicates.<sup>6</sup>

According to Botswana’s Police Commissioner, Norman Moleboge, motor vehicle theft is a threat to the country which the police are taking very seriously. He admits that the criminals responsible constantly change their methods and

his department is thus forced to devote resources continuously to the problem. Because of the changing *modus operandi* and the sophisticated nature of these syndicates, there is not much optimism that vehicle theft will be eradicated soon. Official records indicate that up to 1,000 new vehicles are registered each month in Botswana, presenting an attractive target for criminals. Vehicles are the easiest items to dispose of given their utility

Table 1: Number of stolen vehicles per year, 1998–1999	
Year	Total number of vehicles reported stolen
1998	502
1999	555

value, but as a result of sterner sentences for car theft since the advent of the Motor Vehicle Theft Act of 1995, opportunistic car theft is on the decline. However, organised and systematic theft is on the increase.

Although there is an upward trend in motor vehicle theft, the recovery rate is also high. Of the 555 vehicles stolen in 1999, 507 were recovered. According to police reports, the rate of recovered vehicles ranks as one of the highest in the region, with a recovery range of 86–91%. This rate is attributed to the high number of teenagers and drunkards who steal vehicles but usually abandon them to avoid being arrested for drunken driving. The other observation is that theft of motor vehicle appears to be concentrated in urban centres and confined predominantly to the region near the southern border with South Africa.

Table 2: Distribution of motor vehicle theft across the country					
South	Gaborone 247	Molepole 46	Lobatse 33	Kanye 32	Mochudi 31
Central	Serowe 57	Letlhakane 4	Selebi Phikwe 33		
Kgalagadi	Maun 11	Tsalong 3	Gantsi 2		
North	Francistown 29				

Criminal syndicates specialising in motor vehicle theft

Before the enactment of the Motor Vehicle Theft Act, numerous criminal syndicates were involved in vehicle theft. Most of these have since disbanded as a result of the stringently applied penalties and the intensified joint operations by military intelligence and the police service in Botswana and across the borders.

Currently there are at least four criminal syndicates still involved in vehicle theft. A strong body of information among official investigators suggests that these syndicates are responsible for the significant increase in car theft in the country. From the geographical distribution of thefts it appears that almost all the major centres are covered, giving the impression that there are criminal groups in many centres of the country. The reality, however, is that almost all vehicle thefts are organised by a few small groups, all of which operate from

Gaborone where their core activities are concentrated. This could be strategic since the country's capital has the largest ratio of vehicles per population.

#### *Organisation of the motor vehicle theft syndicates*

Although at an operational level the syndicates are distinct, they seem to know each other and even cooperate to the extent of sharing intelligence about the police. They also tend to socialise at the same places and have mutual acquaintances and friends.

Common to all the known syndicates is the strong presence of foreigners, particularly South Africans. In one syndicate, which I shall call 'Mophato', there are several South Africans, a Zambian, a Zimbabwean and some Botswana nationals. While Mophato operates in Botswana there is every reason to believe that its leadership is in South Africa and that its members in Botswana are mostly used for general reconnaissance, to identify targets and to provide safe havens.

#### *Modus operandi*

Mophato members in Botswana have 'friends' in strategic organisations such as banks and government departments, including the police, immigration and customs, and they interact with them in two ways. The first is by direct bribery to obtain essential information on how to circumvent systems or legitimise their own illegal activities. The second way is for syndicate members to use various means to dupe their unsuspecting acquaintances into participating in their activities. This method is used mainly to lure females into becoming unwitting accomplices. The male members will target women working in strategic places and make what seem to be innocent advances, often enticing them with expensive gifts and money. In the process the women provide leads and information picked up at their places of work, and sometimes they even become accessories in the execution of crimes. The syndicates usually target young women with ambitions for greater material prosperity and those who are unlikely to attract attention at work.

In some instances the syndicates benefit from the voluntary assistance of staff who trade in confidential information about their department. This is believed to be the case occasionally at the Departments of Transport, Immigration and Customs.

The major task of the Botswana-based part of the syndicate appears to be to perform regular surveillance in order to study the movements of vehicles they intend to steal. This involves monitoring the owners over a long period to detect an established pattern of movement. Information is communicated to

strategists in South Africa so that agreement can be reached on the times and places where the vehicles are most vulnerable to theft. The plan would also include an exit route for the stolen vehicles. Mophato's market is believed to be mainly in South Africa and, to a lesser extent, in Zimbabwe and Zambia.

#### *The role of women in the syndicates*

Mophato and the other syndicates that were the subjects of this study are predominantly composed of males. Women only participate as peripheral accomplices, sometimes unknowingly. Apart from being used as sources of information, women may be required to provide accommodation or to facilitate the unrestricted movement of stolen vehicles. They have also been used as fronts in vehicle re-registration, as they are believed to attract less suspicion. In instances where the registration is not altered before the stolen vehicle is removed from Botswana, the syndicate usually engages the services of a Gaborone-based garage to modify certain of the vehicle's features.

#### *Types of stolen vehicles*

According to police statistics a wide range of vehicles is stolen, the most common being Toyotas. The bulk are stolen for short-term use and then disposed of—some, for instance, are stolen as getaway vehicles to facilitate a single armed robbery. Syndicates like Mophato, however, do not abandon vehicles since they constitute part of their core business. They tend to concentrate on luxury cars such as BMWs, as well as minibuses and recreational vehicles. Mophato mainly targets businessmen but more recently has also focused on the government fleet at the Central Transport Organisation, from which it has mostly stolen minibuses. Taxi operators throughout the region are said to be in dire need of the same kind of minibuses and it would thus appear that the syndicate targets vehicles for which there is a high demand.

#### *Use of firearms in the theft of vehicles*

Mophato's preferred *modus operandi* is to steal cars at gun point. The owners are then kidnapped, tied up and thrown into the bush to avoid an early alarm. On rare occasions some members remain to guard the victim until after the vehicle has crossed the border, making it difficult for the police to track the vehicle and apprehend the thieves. In the last half of 2000, Mophato members were linked to a spate of car thefts in Gaborone and the police apprehended four members of the syndicate who were suspected of stealing a car belonging to a Tlokweng businessman. They have since confessed to a number of other car thefts that took place in Gaborone and surrounding areas during the same period.



Drugs

From an official point of view drugs are not regarded as a serious problem in Botswana. The most commonly available drug is cannabis or *dagga*, which is either grown locally or smuggled into the country. However, small quantities of hard drugs such as cocaine, amphetamines and benzodiazepines do arrive in Botswana, usually by mail from Brazil and other South American countries, for local consumption. The recipients of these are mostly members of syndicates, in particular ‘Mokgalo’ and other known criminals.

There is a strong belief among intelligence personnel and in underworld circles that Botswana is used as

Table 3: Botswana police report drug analysis			
Drug Name	Number of cases		
	1998	1999	2000
Cannabis	155	779	850
Cocaine	2	1	1
Amphetamines	1	–	–
Benzodiazepine	1	1	1

a conduit to channel drugs into the larger South African market. Various lodges and safari tour operators in the north-west of the country are suspected of dealing in large amounts of hard drugs. Situated in deep rural areas far from public and official scrutiny, many of these safari lodges are owned by expatriates who have light aircraft and landing strips that

are not subjected to customs and immigration checks. It is thus possible to do a return flight between Botswana and a neighbouring country without going through customs procedures. Intelligence officers believe that some of the safari operations may be a front to conceal the real business of drug transportation. At the time of writing, this assertion had not been verified.

Money laundering

Like any growing economy, Botswana is susceptible to money laundering. The money involved is the proceeds of elaborate commercial crimes, some of which are achieved by or with the collusion of bank employees.

A classic money laundering case is that involving Mr. Stegtler, a bank manager at First National Bank in Gaborone. Using privileged information he—together with a team of South Africans, Batswana and a Dutch national—planned to launder at least three million pounds sterling to an account in the United King-

dom. Impersonating bank officials from Botswana they duped South African financial institutions to change US dollars into rands, which were fraudulently moved into Botswana at different times. Through the office of Stegtler the rands were then exchanged into British pounds and deposited at various times into an offshore account. The group used bank staff to bend laid-down systems and procedures and also contravened foreign exchange controls and the Bank of Botswana Act. As a result of this action the central bank could not regulate the in-flow and out-flow of foreign currency, leading to an oversupply of the rand on the market.

In a similar well-organised scam the Bank of Botswana lost R2 964 550. The money was stolen using the electronic bank communication system (Swift), and the crime was committed with the collusion of bank staff.

Fraud

The most glaring cases of fraud surfaced towards the end of the Financial Assistance Programme (FAP). FAP was formulated to provide direct financial assistance to enterprises on the assumption that they would become financially viable in the long run. FAP was introduced in May 1982 and its main objectives were to create and sustain employment and diversify the country’s economy beyond the two traditional economic pillars of diamonds and beef. Depending on the size of the project, the scheme would disburse millions of pulas. As the DCEC noted:

Cases of abuse have involved collusion between FAP recipients and suppliers with the sole aim of defrauding government. Suppliers have paid equity contribution for FAP recipients and later recovered the funds through inflation of quotations and invoices. Invoices are frequently presented for payment before delivery of equipment. The effect of this pre-payment practice is that often the equipment is either not delivered at all or it is delivered after much delay or is not of the required standard.<sup>7</sup>

The existence of this loophole led to a situation where a team of unscrupulous businessmen, mainly suppliers, benefited handsomely from the scheme. In some instances businessmen teamed up, identifying prospective Batswana applicants whom they could use as pawns to defraud the scheme. They usually identified front men to co-ordinate their activities so that they could use as many applicants as possible. Most of the suppliers involved were South African, while others were from Asia and elsewhere.

A lifestyle mail order system is also being used to perpetrate fraud, involving the following basic steps: a registered company, using fictitious names, colludes with an information brokerage firm, which sells personal data about people. After obtaining the details of different people the company dispatches letters to them in which they are told that they have won a lot of cash in a competition. But before the money can be claimed the company requests the recipients of the letters to part with a nominal amount (sometimes BP76, the equivalent of US \$13.82 at the time of writing), to cover administration and handling costs. A good number of unsuspecting Batswana have already fallen prey to this scam, while the operators rake in thousands of pulas.

### ***Immigration syndicates***

As a middle-income economy, Botswana is attractive to political and economic refugees. Hoping for better employment opportunities some foreign nationals are prepared to do anything to get into the country and benefit from what they believe to be a diamond boom. The stringent immigration laws and procedures of Botswana have unfortunately created a market for enterprising criminal groups. Two syndicates are known to be in operation, one in the northern city of Francistown and the other in Gaborone.

#### *Organisation*

The syndicates are made up almost exclusively of expatriates, with locals being used only as couriers and sources of information. As is the norm across most of the criminal economy of Botswana, women play a peripheral role. There are basically two sources of business for the immigration syndicates: the first are people of Oriental origin, while the other is African based, comprising regional clients from within SADC, especially Zambians and Zimbabweans but also including would-be migrants from East Africa.

#### *Modus operandi*

Essentially the syndicates function by infiltrating the government system. They have official stationery, government stamps, and even the means to produce passports of various countries. On their payroll the syndicates have immigration and customs officials and police officers who not only provide confidential information but also assist in stealing equipment from government offices.

Each syndicate has a presence in various countries, where prospective clients are offered work permits, fictitious qualifications, and sometimes convenient

passports. The syndicate in Francistown has been linked to a growing number of individuals with fictitious qualifications, in both the private and public sectors. Recently a increasing number of architects, doctors and engineers have been exposed after they were found to be professionally incompetent.

The Botswana police recently apprehended key members of the Francistown syndicate when official stamps belonging to various government departments were found in their possession. A Kenyan national, Caesar Munga, who was found in possession of the official stamps, at first claimed that he was a Zimbabwean, but he possessed a valid Kenyan passport and on this he was said to be a clerk by occupation. This contradicts the information contained in the waiver he obtained from the Department of Labour, which describes him as a civil engineer in the employ of Pentaswana (Pty) Ltd. The detention of Munga has led to the arrest of other foreign nationals including Zimbabweans, Sudanese, Kenyans and Zambians. It remains to be seen whether the Francistown syndicate has been dealt a mortal blow.

### ***Government tenders and the tendering process***

There are countless systems and procedures within the government tender process, and cumulatively these result in the area being something of a closed book, closely guarded from public scrutiny.

In Botswana all large and national projects fall under the jurisdiction of the Central Tender Board (CTB), whose processes are often regarded as somewhat mysterious. A recent study conducted by the DCEC, the Botswana Confederation of Commerce and Industry and Manpower, and the Commonwealth Business Council (CBC) found that the public sector tendering system is full of irregularities and is run by cartels. The report further found that some members and former members of the board use privileged information to benefit companies in which they have shares and interests. Since most government officials have shares in companies that usually stand to benefit from the tendering process, it is widely believed that they regularly pass on privileged information on future government procurement requirements.

#### *Organised crime in the tendering process*

In a recent case a director of the roads department, Kebonyekgotla Kemokgatla, was found guilty in a magistrate's court of colluding with private contractors after accepting a bribe of BP100,000 to award a road construction tender. The case revealed skeletons in the largely subterranean tendering process. In court

Nicholas Zakhem, a Lebanese construction company magnate, admitted that he and a group of others had bribed powerful officials in both local government and central government. He also admitted that government officials in influential positions used their power in favour of his bid. One of these individuals has been identified as a powerful minister in the government, who at the time was a director in the company that was awarded the tender.

### *Modus operandi*

From the confessions of Zakhem and the reports of the CBC and the Botswana chapter of Transparency International, it appears that cartels or criminal syndicates benefit from the tender process through the use of inside knowledge. By means of bribery the prospective contractors get confidential details about reserve prices and the scope of projects, information that gives them a great advantage over their competitors. With the help of such information these companies are able to prepare and refine their tender documents even before the tender is released. As a result of this, the same companies invariably win the tenders, not because they are more deserving but because they enjoy an unfair advantage.

Another method employed is to persuade public figures such as ministers, councillors and Members of Parliament to accept directorships in these companies. The CBC report catalogues the dissatisfaction of the business community resulting from political interference in the award of tenders. At local government level the situation is particularly gloomy as tenders are awarded by votes in council. Recently the same Nicholas Zakhem was awarded a multi-million pula tender to reconstruct a road in the Kgatleng District. This award was made notwithstanding strong protestation that his construction company did not have a proven record and that he had previously been implicated in unfair tendering.

It is therefore not surprising that the long-serving chairperson of the CTB, a former Minister of Finance and now the Chairperson of the ruling Botswana Democratic Party, described the CTB as a body run by the Mafia. As he aptly put it, tenders at the CTB are signed and sealed at golf clubs and expensive restaurants even before the tenders are publicly advertised.

## **Government penetration by organised criminal syndicates**

From this discussion it should be evident that organised criminal groups have permeated legitimate government business transactions and caused officials to

breach the code of acceptable conduct. As the Director of the DCEC, Tymon Katlholo, laments, the country is probably losing millions of pulas through tenders awarded to undeserving companies. The loss is not only financial but also affects the moral fabric of society in Botswana. The ultimate outcome has been slow delivery by government on projects that could substantially change the lives of many. Even worse, some companies have simply failed to meet their obligations and are in violation of tender requirements, which are not stringently enforced. The sad reality is that the penetration by organised criminal groups has led to a situation where fair players are sidelined and commerce is in danger of being monopolised by criminal syndicates.

As criminals penetrate legitimate structures, fairness and transparency are undermined. Eventually the culture of bribery and extortion will become so prevalent that before officials perform any service they will demand a bribe, and the erosion of honesty, transparency and fair play will have serious consequences for democracy and good governance.

## **Conclusions and recommendations**

From the case studies presented above, it is clear that organised crime and corruption are swiftly becoming a major problem facing the Botswana government. If the situation is not adequately addressed, the subterranean criminal industry will flourish and this will have obvious deleterious consequences not only for Botswana but also for the region as a whole. If Southern Africa becomes a hub of organised crime on the continent, the inevitable consequence will be an erosion and dissipation of investor confidence. The region will then continue to lag behind other parts of the world that are making progress towards improving the lives of the majority of their people. More importantly, the efforts and initiatives of the SADC will be seriously jeopardised.

It is now a fact that organised criminal groups do exist in Botswana. In July 2001, Interpol concluded its biennial African regional conference in Gaborone by stressing the need to improve communications and technology with a view to the better coordination of action against crime on the continent as a whole. Although it has been established that the existing organised criminal groups in Botswana are limited in terms of complexity and scope, and are not as sophisticated as the more advanced syndicates in Europe, they are without doubt a danger to be confronted and it is important that a proper strategy be formulated to deal with a problem that has the potential to disrupt the country's development path. In Africa as a whole, organised crime and corruption are

growing at a rate that does not allow one to believe that the phenomenon will begin to recede soon. In fact, given the capacity limitations of law enforcement and monitoring institutions, there is every reason to be concerned that criminal activity might accelerate.

To avoid the worst scenario, Botswana needs to harness its efforts towards the following:

1. The Botswana Police should be given greater resources to enable the service to fight organised crime.
2. More specialised units should be put in place to deal with crimes such as money laundering, car theft and the general investigation of organised criminal syndicates.
3. The Departments of Immigration and Customs should work closely with the Botswana police to ensure that syndicates and other criminals are apprehended before they can enter or leave the country.
4. Interpol, the Southern African Forum Against Corruption and the Southern African Regional Police Chiefs Co-operation Organisation should make greater use of information exchange networks to improve transnational cooperation between police services.
5. The substantive provisions of the SADC Protocol Against Corruption should be integrated into domestic legislation in Botswana and across the region to ensure common legislation and to facilitate cooperation amongst law enforcement officers in the sphere of corruption control.
6. Information communication technology (ICT) should be made an integral part of police training to sharpen their investigations skills. Lack of ICT competence puts police at a big disadvantage in relation to the criminals they trail.
7. There should be coordination between all institutions of law enforcement within Botswana.
8. The tendering system should be more transparent to minimise opportunities for corruption and collusion.
9. Politicians should be barred from tender awarding processes, as this has been known to create problems of favouritism.

## Notes

1. For further discussion see S Calvert & P Calvert, *Politics and society in the Third World: An introduction*, Prentice Hall, London, 1996.
2. For a more detailed discussion, see J Nye, *Pan-Africanism and East African integration*, Harvard University Press, Cambridge, MA, 1967.
3. D Kelne & M Levi, The corruption of politics and the politics of corruption: An overview, in D Kelne and M Levi, *The corruption of politics and the politics of corruption*, Blackwell Publishers, London, 1996, p 1.
4. See P Chabal & J-P Daloz, *Africa works: Disorder as political instrument*, Bloomington, London, 1999.
5. P Matsheza, Role of media in combating crime, paper presented at the conference on media and corruption, organised by the Human Rights Trust of Southern Africa, Victoria Falls, Zimbabwe, August 2001.
6. President Festus Mogae, as quoted in the *Botswana Gazette*, July 2001.
7. See the Directorate on Corruption and Economic Crime Act, 1994, p 3.



Source:

University of Texas at Austin, UT Library Online, <[www.lib.utexas.edu/maps/africa/south\\_africa.jpg](http://www.lib.utexas.edu/maps/africa/south_africa.jpg)>.

Accessed 26 March 2003.

## CHAPTER 3 SOUTH AFRICA

Jenni Irish & Kevin Qhobosheane

### Background

This chapter is based on interviews with members of the South African Police Service (SAPS), the Department of Justice, individuals in the corporate sector and people with links to organised crime. It also draws on existing documentation, reports, press articles and academic research and papers.

Numerous investigations have been conducted into organised crime groups in South Africa. A number of articles and research papers have also been written on the extent of organised crime and the types of crimes committed. Most police investigations focus on the actual crimes committed by such groups and on the arrest of individuals or seizure of goods. However, there is not much information available on the structure and *modus operandi* of these groups.

Organised crime groups are also extremely difficult to penetrate and developing an accurate picture of their operations can take months, if not years. This is thus not a comprehensive study of such groups in South Africa, but rather an introductory look at some of the groups operating in the country, including both domestic groups and those that originate in other countries.

One of the characteristics of modern organised crime groups is that they are fluid and flexible and can quickly adapt themselves to meet new opportunities, challenges and risks. As a result their *modus operandi* can change fairly rapidly. The type of crimes they are involved in can also be adapted to meet new opportunities. Categorically defining their operations is thus almost impossible. What is required, instead, is a more long-term focus on these groups to better understand how they operate.

Because they operate for profit or wealth, organised crime groups rely on the existence of markets and the principles of supply and demand. As is the case in legitimate business, people involved in organised crime can also move up the ranks of particular groups. Likewise, people involved in petty crime can ascend into becoming involved in organised crime. Unfortunately, this area has received little serious study.

To develop a better understanding of organised crime, its scale and diversity, it is important to look more closely at the economy of crime and the social factors that impact on organised crime's development. However, this area was outside the time and resource limits of this study.

For crimes to be deemed 'organised', the following were regarded as necessary for the purposes of this study:

- the offences should be serious;
- the offences should be for profit or power;
- the group committing the crimes should operate for a prolonged or indefinite period;
- the group should have a clear structure;
- there should be division of labour or tasks within the group;
- the group should have some form of discipline or control;
- money laundering should be a component of the group's activities; and
- the group should be able to exert influence through corruption, violence or intimidation.

The chapter looks at some of the different types of organised crime groups in South Africa as well as some of the crimes they are involved in. Factors contributing to the dramatic increase in organised crime since 1994 are also outlined.

Some domestic groups are increasingly becoming linked to transnational crime. This chapter first looks at transnational groups operating in South Africa, though information on them is difficult to obtain as they are extremely difficult to penetrate. It then examines domestic groups and reviews their operations.

Most organised crime groups rely on corruption or coercion of people in positions of authority, both in government and in private enterprise. The last section of this chapter looks at examples of corruption and at how it strengthens opportunities for organised crime groups to operate successfully.

## Overview of organised crime in South Africa

Although organised crime is attracting increasing international attention, it is not a new phenomenon—the Italian Mafia has been in existence since the

1940s and the Chinese Triads since the 12th century. Smuggling is also one of the world's oldest professions and there is nothing new about criminal groups crossing international borders. However, the size, scale and diversity of these groups are new, as are their growth in both wealth and power.<sup>1</sup> In fact, organised crime is increasingly being regarded as an international security threat rather than being merely an internal crime problem peculiar to specific countries.

As with other countries, organised crime groups existed in South Africa prior to 1994. The 'Boere Mafia' were fairly strong in the 1970s and early 1980s and the Chinese Triads' involvement in the country dates back to long before 1990. However, just as the 1994 election opened up new opportunities for South Africa and ended its period of international isolation, benefiting legitimate businesses and organisations, so too did it create opportunities for organised crime groups to take advantage of change. Since then both transnational and domestic organised crime have escalated dramatically, to the point that by 1996 the World Economic Forum regarded South Africa's organised crime problem as being superseded only by that of Columbia and Russia.

A recent report drawn up by the Central Intelligence Agency and the Federal Bureau for Investigation for the United States' President identified South Africa as an important centre for international criminal activity. It estimated that there were 32 transnational organised crime groups operating in South Africa at a cost to the government of approximately US\$23 billion each year.<sup>2</sup> These groups include nationals of Russia, Italy, Portugal, China, Morocco, India, Pakistan, Lebanon and Nigeria.

The exact number of organised crime groups is difficult to estimate accurately but in 1996 the SAPS put it at 196.<sup>3</sup> Current estimates suggest this number has increased to as many as 230 groups.

The majority are not run on the basis of highly structured operations but function rather as networks. This means that even if the police arrest key people, they are replaced and the network continues to operate. Exceptions are the Chinese Triads, which are highly structured (although even the Triads make use of networks of Taiwanese, Koreans and South Africans in carrying out criminal operations). Similarly, the operations of Russian groups are also often centred on a couple of powerful individuals.

It is not unusual for networks to cooperate or form alliances with one another, and even to merge if the opportunities are right or the risks require it. While

some networks specialise in one type of crime, many are involved in a variety. Their sophistication varies. Some of the less sophisticated groups operate primarily at a domestic level, although there is an increasing trend for even these groups, along with more sophisticated domestic groups, to link up with transnational groups. They either offer their services to the transnational groups, cooperate with them on joint ventures, or merge with them.

The Nigerian networks, for example, often farm out certain of the more violent aspects of their trade to domestic groups. They have also formed cooperative links with domestic groups, such as those involved in cash-in-transit heists. In these situations, the South Africans keep the cash from the robberies while the Nigerians keep any credit cards or cheques. Domestic groups have also had historical relations with Pakistani networks, largely centering on their involvement in the mandrax (methaqualone) trade. Some such local groups have merged with Pakistani groups that have entered the country, making it extremely difficult to distinguish between them. Other bonds tie the groups together: Pakistani networks prefer to work with people from the same religious background as themselves.

Many of the transnational groups and networks operating in South Africa are formed along ethnic lines. Although they may make use of criminals from other countries, these foreigners will seldom rise to prominence in the networks. For example, while the Chinese make use of Korean and Taiwanese recruits, control of the networks remains with the Chinese Triad members. Nigerians make use of South Africans but the latter seldom rise to prominent positions. There is often more than one transnational network in South Africa with the same country of origin and these networks often share information or cooperate with each other when the need arises. For example, if someone double-crosses a Nigerian network, other Nigerian networks are warned not to deal with that person.<sup>4</sup> But this does not necessarily imply that these different groups of the same origin do not compete with each other and that conflict between such groups does not arise.

## Types of crimes

While some organised crime groups specialise in one type of crime, others are involved in a variety. Below is a brief overview of some of the types of crimes in which organised groups are involved. (A later section details the types of crimes engaged in by different transnational groups, as well as the main areas of involvement of domestic groups.)

## *Vehicle theft and hijackings*

The SAPS first identified the smuggling of cars across Southern African borders as a problem in the 1980s. Since then the movement of stolen vehicles has increased dramatically.<sup>5</sup> Stolen vehicles have also become an important form of currency and are regularly used to pay for other goods (see gold and diamond smuggling below), or sold for hard cash. Statistics presented to Interpol indicate that South Africa accounts for between 96% and 99% of all vehicles stolen in the region.<sup>6</sup>

Some stolen vehicles are re-registered before being sold to people involved in supplying the domestic market. However, since the 1980s an increasing number have crossed South Africa's borders into neighbouring states, often in exchange for other illegal goods. Between February and March 1997 a joint security operation, codenamed V4, was undertaken in the region, involving security agencies from Botswana, South Africa, Zambia and Zimbabwe. Some 1 576 stolen vehicles were recovered over a period of 12 days, of which 1,464 were stolen in South Africa.<sup>7</sup>

One of the responses to the increase in car thefts was for car owners to have anti-theft devices fitted on their vehicles. Hijackings increased in turn: in 1996, some 12,860 car hijackings were reported, while figures for 1999 show a 20% increase to 15,447 reported cases. However, during 2000 a slight downward trend was experienced and reported cases dropped to 14,999.<sup>8</sup>

It appears that the initial groups involved in illegal car smuggling were South African networks, which linked up with both foreigners in South Africa and criminal networks from other African countries. These groups were later to develop into more sophisticated organised crime networks. More recently some of the transnationals in South Africa, such as certain Nigerian networks, have become involved in the lucrative car smuggling trade. The foot soldiers that carry out the actual hijackings or steal the cars are still predominantly South Africans, however.

Reports of significant numbers of truck hijackings began to emerge in 1995 and, like car hijackings, the reported figures have escalated rapidly since then (see below). There appear to be two types of networks involved in truck hijacking: those that are interested in the vehicles themselves and those that target the trucks' cargo. Many of the former end up in neighbouring states. The extent to which these networks may be linked to car hijacking networks is unclear.

The networks that target trucks for their cargo appear relatively sophisticated. Investigations by police and people in the industry identified the involvement of a number of transnational groups in this type of hijacking, including Portuguese, Lebanese, Chinese and Pakistani. However, as with cars, it is mainly South Africans who carry out the actual hijacking of trucks.

Recently the phenomenon of fraudulent or stage-managed hijackings has come to the fore. While it is impossible to accurately estimate the numbers involved, reports from police, insurance companies and people in the trucking sector indicate that a significant number of reported hijackings involve the collusion of drivers. Though some such drivers may be acting as individuals, indications are that a significant number of these fraudulent hijackings involve relatively sophisticated organised crime networks.

In 1997, some 83 crime networks were estimated to be involved in vehicle related crime.<sup>9</sup>

### ***Other stolen commodities***

Many organised crime networks make use of other stolen commodities, much in the same way that stolen cars are being sold or smuggled to neighbouring countries where they are exchanged for cash or for other goods. Cellular phones are key targets for both petty criminals and organised networks. Nigerian networks, for example, swap drugs for stolen cellular phones, and Pakistani networks are also known to deal in them.

As is the case with stolen vehicles, the transnational networks are not normally involved in the actual theft of the phones but rather in their purchase and distribution. Some of the cellular phones are resold locally, but others are smuggled across the border, particularly into Zimbabwe: a shipment recently transported to Zimbabwe by truck included more than 7,000 phones.<sup>10</sup>

### ***Dealing in 'grey' products, and customs fraud***

A number of the more sophisticated local groups and some of the transnational networks, such as the Chinese, are involved in dealing in 'grey' products. These are knock-off items brought into the country by the container load and then sold on the local market, often through street vendors or flea markets but also through shops.

Customs fraud, involving incorrect or under-declaration of imported goods, is another of the networks' activities. They under-evaluate the goods' worth or declare them as items that incur low or no customs duty. Many of the organised crime groups have their own clearing and forwarding agents, who deal with the customs officials on their behalf. The corruption of customs officials is often central to the success of customs fraud.

### ***Drugs***

Since 1990 South Africa has increasingly become an exporter, transit country and end user of illegal drugs and is increasingly being identified internationally as a major player in the international drug trafficking and drug flow arena. The United Nations Drug Control and Crime Prevention representative, Rob Boone, recently identified South Africa as one of the nerve centres of drug trafficking and abuse,<sup>11</sup> while the British Foreign Affairs Office regards it as one of the most important conduits for South American drugs into Western Europe. Since 1994 British customs officials have found large quantities of drugs entering Britain and Europe via South Africa.<sup>12</sup>

During 1995 South Africa accounted for 73% of all cocaine seizures on the African continent. In 1998 the SAPS seized 44 kilograms of compressed cocaine with an estimated street value of R13.2 million at Johannesburg International Airport, where the drugs had arrived on a flight from Sao Paulo.<sup>13</sup>

South Africa's involvement in the illegal drug markets began prior to the 1990s. During the mid-1980s it was one of the leading buyers of illegal mandrax. In 1987 the SAPS raided a mandrax factory in South Africa that could produce approximately 20 million tablets. During this period elements within both the pro- and anti-apartheid forces appear to have been involved in this trafficking. It appears that some groups linked up with larger organised transnational groups, such as Pakistani groups, to smuggle mandrax into the country. Evidence presented to the Truth and Reconciliation Commission (TRC) highlighted the involvement of certain individuals in the manufacture and sale of Ecstasy tablets. These people seem to have later evolved into what became known as the 'Bouncer Mafia', people who operated as bouncers at many rave clubs around the country and were linked to the supply and sale of drugs at these clubs.

However, since 1990 the influx of transnational organised crime groups has brought diversification and expansion to drug trafficking in South Africa. Cocaine, heroin and hashish markets have dramatically expanded. The Interpol



World Cocaine Report states that 'the Southern cone of Africa has become one of the hottest spots of cocaine trafficking in the world'.<sup>14</sup> Cocaine seizures rose from 30 716 kilograms in 1994 to more than 218,000 kilograms in 1998.<sup>15</sup> Southern Africa now accounts for most of the heroin seized on the continent, with the largest seizures occurring in South Africa. Drug users also report a recent increase in the availability of hashish, which was previously fairly difficult to obtain. During 2000 police seized R1.43 billion worth of narcotics: 19 million mandrax tablets, 500 kilograms of cocaine and 11 tonnes of hashish.

Although there are some domestic groups involved in the illicit drug trade in the country (such as the Western Cape gangs), transnational groups including those from Pakistan, Nigeria, Morocco, Tanzania and China dominate the bulk of the trade. Drug trafficking is estimated to be worth R50 to R75 billion annually.<sup>16</sup>

One exception to transnational groups' domination of the drug trade is the trade in Ecstasy tablets. Although some are imported, a number of laboratories have been discovered within South Africa. In 1997 the SAPS raided two such laboratories. During one of these raids, ex-South African Defence Force cardiologist, Wouter Basson, was arrested for trying to sell 1,000 tablets.<sup>17</sup>

### ***Gold and diamond smuggling***

Gold smuggling has existed since gold mining first began in South Africa. The South African Chamber of Mines estimates that it loses approximately 7% of its annual gold production to theft. In some cases there appear to be sophisticated networks involved in buying stolen gold. In 1996 the South African Government estimated that it lost R300 million a year from the smuggling of gold out of South African mines by organised crime groups. A study by the Institute for Security Studies suggests that approximately 35 tonnes of gold were stolen and unrecovered per year during the period 1994 to 1998 and that the loss to South Africa's gold mining sector during that time was R1.9 billion per annum.<sup>18</sup> The government claimed that much of the proceeds were being laundered through Switzerland and that roughly 90% of gold smuggled out of South Africa was transported there before being moved to other markets.<sup>19</sup>

A number of local networks are involved in this trade, as well as transnational groups such as Nigerians, Russians, Germans and Indians.

Diamond smuggling networks have also existed for many years. Some sophisticated networks annually deal in stolen diamonds worth millions of rands.

Most are stolen by mine workers, some of whom are paid a monthly fee while others are involved in thefts on a more *ad hoc* basis. These diamonds are then sold on to networks with the infrastructure and contacts necessary to cut and export them. The networks also appear to have customs contacts that ensure the diamonds are able to leave the country without being detected.

South Africa is also used as a transit point for diamonds from other parts of the SADC region. The United Nations Panel of Experts on links between the trade in 'conflict diamonds' and the conflict zones of Angola and the Democratic Republic of the Congo (DRC) found that some conflict diamonds from these regions were being smuggled into South Africa. (See also the chapter on Namibia in volume I of this monograph.)

Interpol also points to intelligence reports linking diamond smuggling to the trade in stolen vehicles. According to these reports, stolen vehicles are taken into the regional conflict zones where they are exchanged for hard currency (US dollars) or for diamonds. The diamonds are then smuggled back into the countries from where the vehicles originate, like South Africa, and reintroduced into the local market or shipped to overseas markets. According to Interpol:

Organised syndicated structures have been identified and some of the leaders' names have been circulated for monitoring and further action by the countries involved. Some of the syndicates involved with diamonds are suspected to be involved with firearms smuggling as well.<sup>20</sup>

### ***Dealing in endangered species***

The trade in endangered species is considered to be one of the world's largest black markets.<sup>21</sup> Certain organised crime groups, particularly the Chinese Triads, have used South Africa not only as a source but also as a transit country for smuggling such species from neighbouring countries.

The trade in South Africa involves ivory and rhino horns as well as *perlemoen* (abalone) and endangered plants such as cycads. A significant proportion of the commodities are destined for Asia; Taiwanese involvement in smuggling networks is relatively well documented. According to a report in the *African Security Review*, the financial rewards for the groups involved in the illicit trade in endangered species is high enough that they are prepared to take risks.<sup>22</sup> The abalone trade, for example, is estimated to be worth more than R500 million annually and the product is sold legally in both Taiwan and Hong Kong.<sup>23</sup>

There is also a link between the trade in endangered species and the trade in weapons and drugs.

### ***The arms trade***

The proliferation and availability of firearms is often regarded as one of the major factors contributing to high levels of violent crime in South Africa. Historically, the trade in weapons has been an extremely lucrative business. Small arms in particular are easy to move across borders.

A 1998 report by the Network of Independent Monitors and Gun Free South Africa stated that the real extent of smuggling is difficult to assess. However, it went on:

A single smuggler can bring approximately 30 weapons across the border at one time and can undertake two trips per month to Mozambique. Five such suppliers were arrested during a recent investigation. It is estimated that between them they smuggled approximately 300 weapons across the border per month. These suppliers were part of a syndicate and available information indicates that several such syndicates may be involved in gun-running.<sup>24</sup>

Armed conflicts in a number of Southern African states during the last two decades have left a ready supply of weapons available for smugglers involved in the arms trade. (Many are involved not only in weapons but also in vehicle and drug smuggling.) Similarly, the end of the Cold War left a supply of both heavy and light arms. Eastern European organised crime groups, particularly from Russia, have become involved in the illicit trade in these weapons. While the majority of heavy weaponry is not destined for South African markets but rather for conflict zones elsewhere in Africa, some of the people involved in these networks use South Africa as a transit point.

### ***Trafficking in humans***

A number of groups are involved in the trafficking of humans, which takes a variety of forms. One involves smuggling people into South Africa. Those being smuggled either pay the group to assist them in entering South Africa or agree to do jobs for the group in return. Some groups make use of corrupt officials in the Department of Home Affairs or other government departments to facilitate this smuggling. Groups involved in this form of human trafficking

include some of those from Pakistan, China and Nigeria. The criminals who arrange entry into South Africa are usually from the same country as their clients.

There are also instances where transnational groups have lured people to South Africa with false promises of jobs and other opportunities. On arrival in South Africa they find these opportunities don't exist and they are then forced to work off their debts (such as transport costs) to the criminal groups.

Another form of trafficking in humans is through prostitution. In some instances women are lured into the country with false promises of marriage or other opportunities, only to find once in the country that the group that facilitated their travel to South Africa forces them into prostitution. Russian and Chinese groups appear to be involved in this form of trafficking.

Trafficking in human parts is another area in which a number of groups appear to be involved. South African groups appear to be involved in trafficking in human parts for *muti* (medicinal) purposes and there are indications that some Pakistani and Chinese groups are also involved in the trade.

### ***Fraud***

In 1995 the then-Justice Minister, Dullah Omar, said that at that stage there were 23,615 incidents of economic crime under investigation, involving more than R7.1 billion. Dr Mark Shaw points to police figures identifying more than 60 different syndicates as being involved in commercial crime.<sup>25</sup>

Fraud, especially, is an area of commercial crime participated in by a significant number of local and transnational groups. It takes a variety of forms, including:

- credit card and cheque fraud;
- advance fee fraud (AFF), which is largely the domain of West African groups including Ghanaians, Nigerians and Liberians; and
- dealing in counterfeit notes, with South Africa being second only to Italy in 1998 in terms of the value of counterfeit notes seized—in that year, Italy's record for seizures was \$37.5 million while South Africa's was \$16.7 million.<sup>26</sup> By 2000 the US Treasury regarded South Africa as a 'major producer' of fake US currency.

### ***Armed robberies and cash-in-transit heists***

Most groups involved in armed robberies and cash-in-transit heists are relatively well-trained South Africans, with access to weaponry including automatic firearms. Between 1997 and 1998 armed robbers and cash-in-transit heists seized more than R100 million in violent attacks. Between 1996 and 1998 there were more than 854 incidents of cash-in-transit heists.<sup>27</sup>

### ***Kidnappings***

In June 1999 the SAPS announced that they were considering establishing a national investigation team to handle a spate of kidnappings, some of which involved foreign businessmen.

It appears that a number of these kidnappings were linked to transnational organised crime groups, particularly Nigerians and Chinese. There also appear to be two circumstances in which these kidnappings occur. In the first, people working with organised crime groups double-cross them. It is not uncommon for such actions to result in kidnappings, where the victims are required to pay outstanding debts to the group they have double-crossed.

The second relates to people involved in AFF and mainly involves foreign businessmen lured to the country by so-called '419'<sup>28</sup> letters. During 1999 at least three foreign businessmen were kidnapped in incidents that appear to have been linked to AFF scams. One, a Norwegian (Mau Kjetil Moe), was never found and is presumed dead.

### ***Money laundering***

Money laundering is an important activity for many organised crime groups. Some money is laundered through front companies or through purchases made within the borders of South Africa. Money is also transferred out of the country, often into offshore accounts.

### ***Factors contributing to the rise in organised crime***

A number of factors have contributed to the growth of organised crime in South Africa and made it an attractive base for both local and transnational organised crime groups and networks. Some are outlined below.

### ***Porous borders***

South Africa's porous borders provide extensive opportunities for smuggling. South Africa has more than 52 entry points and more than 3,500 kilometre of borders with other Southern African states. In some places the border is nothing more than cattle fencing, which can be easily cut by people involved in smuggling vehicles and other commodities into or out of neighbouring countries. A police officer interviewed estimated that the border fence between KwaZulu-Natal and Mozambique, which has been cut in numerous places, accounts for approximately R10 million-worth of smuggled vehicles per month. These vehicles are smuggled into Mozambique through hundreds of crossing points along the fence.

### ***South Africa as a major maritime trade and air traffic route***

South Africa is a major maritime trade and air traffic route between Asia, Europe and the Western hemisphere. International airlines using South Africa as a stopover or final destination increased from 20 in 1994 to 120 in 1997. The number of ships using South African harbours has also increased dramatically, allowing South Africa to be used as a prime conduit for moving illegal cargo.<sup>29</sup>

### ***Modern infrastructure and growth potential***

Among the factors that make South Africa an attractive base, particularly for transnational groupings, are its modern infrastructure (especially transportation), its growth and wealth potential, an easy banking system and a well-developed commodity market. These factors also make it a good launch pad for international AFF scams.

### ***Transformation processes and corruption***

High levels of corruption and problems arising from the crucial need for government to transform the country's criminal justice system and other government departments have left South Africa vulnerable and provided criminals with a relatively low-risk environment in which to run their operations.

### ***The existence of well organised local criminals and gangs***

The existence of significant numbers of local criminals provides transnational organised groups with key opportunities and working partners. South African gangs are often employed by organised groups to carry out their dirty work.

### ***Poverty and high levels of unemployment***

High levels of poverty and unemployment provide organised groups with a large pool of foot soldiers who are prepared to undertake some of the more high-risk work.

### ***Local markets***

South Africa offers lucrative markets to transnational groups wishing to sell stolen and illicit goods and 'grey' products.

## **Transnational organised crime groups and their operations**

### ***Nigerian groups***

It is estimated that there are between 40,000 and 100,000 Nigerians currently in South Africa, of whom just over 4,000 live in the country legally. Many Nigerians entered the country after 1990 and their number has been increasing annually since then. Most of the major cities have significant Nigerian communities. It has been established that many Nigerians make use of false papers, forged South African identity documents, or other papers obtained fraudulently from Department of Home Affairs officials, to allow them to live in the country. A significant number are involved in criminal activities and organised crime networks.<sup>30</sup>

Rather than a structured syndicate, Nigerians involved in organised crime are found in a number of different networks that reflect the types of crime in which they are engaged.

According to Dr Mark Shaw:

The Nigerian problem is essentially a faceless one. This reflects the fact that individuals are involved in the network for profit, not publicity, as well as the shifting and essentially fluid nature of the networks themselves. Interviews with Nigerian citizens in Johannesburg, for example, suggest that loose and often temporary alliances or associations may be formed around specific projects.<sup>31</sup>

This does not imply that there are no clear hierarchies within these networks. A new participant will normally start at the bottom of the ladder. He might save enough money or get assistance from someone else in the network to buy

his first supply of drugs, and use the profits from this first supply to buy more and become a street dealer. As a street dealer, he will normally always buy his supplies from the same wholesaler within the network. The key person in the network is the one who facilitates deals, who often has strong contacts with people in the drugs' country of origin.

In the urban areas the networks often operate from hotels and blocks of flats that rent rooms out by the day. The buildings commonly used are in close proximity to each other, allowing the networks to operate in defined geographical areas.

Each hotel or block of flats used by the networks has a block committee that is responsible for running the networks operating there, including people operating on the streets in front of the building. The block committee comprises a chairperson, a secretary, a treasurer and a task team.<sup>32</sup> The committee makes rules that must be obeyed by any Nigerians operating from the building. The task team is responsible for implementing the committee's decisions and for ensuring rules are adhered to. Transgressions result in fines or disciplinary action. All Nigerians making use of the building pay monthly or weekly fees to the committee and the money collected is used to pay for security and for legal costs or bail for those who are arrested. Funds are also used for the maintenance and upkeep of the building.

Nigerians operating in the major centres often take over complete geographical areas from which to run their operations. However, there are also a number of Nigerians spread out in small towns around the country.

Initially some of the networks had direct links to people operating from Nigeria itself, but many of the networks have now established themselves independently in South Africa.

Some of the crimes they are involved in are discussed below.

### ***Advance fee fraud***

AFF is essentially a confidence scam and entails letters being faxed, mailed and more recently e-mailed to businesses or individuals. The more sophisticated AFF or '419' scams often involve a team of people making use of fraudulently acquired telephone lines from which to make phone calls related to the scam, thus saving on costs and making numbers difficult to trace.

Nigerians have developed an international reputation for their involvement in AFF scams and as a result many potential victims are suspicious of letters originating from Nigeria, or linked to Nigerians. As a result, some of those operating from South Africa assume local names while running the scams.

AFF scams operating from South Africa have targeted three different groups of people. The first is South African business people. The Commercial Crime Unit of the SAPS recovers hundreds of AFF letters sent to local business people each year. The number of people who are taken in by these letters and are subsequently defrauded is difficult to ascertain because, as the deals offered are seldom completely legitimate and rely heavily on greed, most of those who become involved don't report the matter to the police.

The second target group comprises organisations and business people based overseas. Most will be less suspicious of letters originating from South Africa—with its good infrastructure and links into international economies—than those from Nigeria.

The third group targeted is ordinary South Africans. The most common scheme in this regard is the conversion of hard currency or the 'black dollar scheme'. This involves a person being approached with what appears to be a case full of US bank notes. The AFF operators say that the bank notes have been dyed black by the US government, giving seemingly legitimate reasons for this. The operators offer to split the dollars with the person approached if he or she agrees to pay for a chemical to clean the bank notes. Once the chemical is paid for, the operators disappear and the victims find themselves with a suitcase of bad fake dollars or black paper. It appears that people living in the formerly disadvantaged areas have been the primary victims of this scam.

More sophisticated scams target businesses or individuals with relative wealth. They make use of the names or letterheads of legitimate businesses, without the businesses knowing this is happening. Even the names and letterheads of government departments, such as the South African Revenue Service (SARS), have been used to convince the intended victim of the scheme's legitimacy.

Some sophisticated AFF operators even make use of what a Nigerian interviewee referred to as 'intelligence teams'—people whose specific job it is to gather information about people and businesses to be tricked.<sup>33</sup>

AFF scams operating out of South Africa have taken a number of different forms including:

- the transfer of funds linked to over-invoiced contracts;
- contract fraud (COD for goods and services);
- the conversion of hard currency ('black dollar' schemes);
- the sale of diamonds and other 'precious items' at below market value;
- the fraudulent purchase of real estate;
- the disbursement of money from estates;
- extortion; and
- clearinghouse scams.

Once an AFF letter has been sent out and a positive response received, the operators then embark on a process of confidence building with the intended victim. This can take some time, but eventually the victim is told certain monies have to be paid before the deal under discussion can be finalised. Invariably, complex but seemingly legitimate reasons are given as to why such monies must be paid and this process can be repeated several times with new reasons being given each time.

In the case of foreign business people the AFF operators often tell the victim that they are required to travel to South Africa to finalise the deal. Once in South Africa some victims have then been kidnapped in order for more money to be extorted from their families or colleagues.

There is often a link between drug trafficking and AFF scams, with proceeds from AFF scams sometimes being used to finance drug deals or vice versa. Nigerians are not the only perpetrators of AFF scams in South Africa: Ghanaians and Liberians are also known to be involved.

### *Kidnappings*

Nigerian crime groups appear to have been involved in two types of kidnappings. The first affects those who double-cross Nigerian networks or owe money to them. In such cases, it is not uncommon for the debtor or his family members to be kidnapped and held until the debt is repaid.

The second and more common type of kidnapping relates to business people lured to South Africa by AFF scams. As mentioned, some are kidnapped once they arrive in the country and their families or colleagues are forced to pay substantial amounts of money for their release.

### *Drug trafficking*

Drug trafficking is a major area of activity for Nigerian crime networks and they are key players in the expansion of illicit drug markets in South Africa. Between January and June 1998 a total of 117 Nigerians were arrested in Hillbrow for dealing in drugs.<sup>34</sup> Nigerian networks have not only been successful in finding and importing illicit drugs, particularly cocaine and to a lesser extent heroin, but also in developing a local market for them. According to Ted Leggat:

During the 1990s, other ethnic syndicates did attempt to promote [crack] in South Africa but were largely unsuccessful. Several informants point to long standing Middle Eastern sources for cocaine, especially Israelis, but these people were unable to build the street level clientele that the Nigerians would later cultivate.<sup>35</sup>

Nigerian networks are centrally involved in bringing significant amounts of cocaine into South Africa and many have direct links to the source countries in Latin America. Some cocaine is cooked into crack and sold on the street while the rest is sold in the more expensive powder form.

Though Nigerian networks are also involved in trafficking in heroin, in this they have strong competition from other groups, particularly the Chinese and Pakistanis. The heroin trafficked by Nigerians largely comes from Asia and is brought into South Africa either by couriers, most of whom enter South Africa through the international airports, or by road from neighbouring countries, particularly Mozambique.

Heroin is often smuggled into Mozambique through the ports and airports. A substantial amount is then sent by road either directly to South Africa or via Swaziland. The drugs are transported largely in private vehicles or by taxis or buses. Some of the heroin is destined for the South African market but some shipments are merely in transit through the country, en route via couriers on international flights into Europe, Britain, and to a lesser extent, Canada.

Much the same methods have been used to transport large amounts of cocaine into South Africa. Although Nigerians continue to make extensive use of couriers on international flights, it now appears that some of the largest consignments of cocaine are entering South Africa by road via Mozambique. As with heroin, a lot of the cocaine is destined for the local market but some is only in transit en route to Europe and Britain.

More recently Nigerians have also become involved in the street sale of mandrax and other illicit drugs, most of which are not sourced directly from their country of origin but rather from other criminal networks including the Pakistanis and Tanzanians. The Nigerians' involvement in these drugs is more of a sideline business and linked to needing to establish what one Nigerian referred to as "a one stop drug shop" for their clients.<sup>36</sup>

Nigerian networks are also increasingly becoming involved in the exportation of compressed *dagga* (marijuana), mainly to Europe and Britain, transported by couriers on international flights. Many couriers leave South Africa with compressed *dagga* and re-enter the country with cocaine.

Transnational Nigerian crime networks initially made use of Nigerians themselves as couriers. However, as the Nigerians' reputation in the illicit drug trade grew, so did the need arise to use non-Nigerian couriers. South Africans are now recruited and get paid up to R20,000 per trip. They do not fly directly to the source country but make a number of stops en route, before collecting the drugs. They make a similar number of stops on the return flight.

South African couriers are recruited from all walks of life in order to avoid providing the authorities with one particular category of person to look out for. They can just as easily be pensioners as students, and there are also reports of people being recruited from shelters for the homeless. Nigerian networks often make use of more than one courier on each flight. This is commonly known as the 'shotgun' approach, based on the premise that even if some couriers don't make it through customs, it is unlikely that all will be arrested, especially as couriers are seldom—if ever—aware that there are others on the flight with them.

Once the drugs are in South Africa they are transported to different distribution points, using luxury passenger buses, taxis and even the postal services.

Once wrapped, drugs can be stored in a variety of places. Most storage points have one thing in common: if the drugs are seized, it is difficult to link them to a particular individual within the network. Places regularly used for storage include empty hotel rooms and the petrol tanks of disused cars.

When Nigerian networks first started to operate in South Africa they made use of South Africans to act as street dealers. However, as more Nigerians entered the country many of the South Africans were pushed out of the market and replaced by Nigerians. A South African who worked as a dealer stated that the Nigerians would:

...sell rock (crack) to us for R30 and we would then sell it on the streets for R50. A person could make about R5,000 per week, or more, depending on how much you sold. Then about five years ago the Nigerians brought in more Nigerians and we were cut off. The way they did this was to refuse to sell to us and the new Nigerians took over our business.<sup>37</sup>

Nigerian groups involved in drug trafficking have also diversified into stolen goods and this area of activity is expanding. Stolen goods are swapped for drugs and then either sold on the domestic market or transported to neighbouring countries, where they are used as currency for more drug consignments or sold to African or international markets.

#### *Cheque and credit card fraud*

Organised Nigerian networks are involved in credit card and cheque fraud. The credit cards are sometimes stolen by South African criminals and then sold on to Nigerians, who also pay hotel staff to acquire information from credit cards and use bank contacts to acquire further information. Cheque books and credit cards are obtained either from local criminals or from bank personnel, and are then used fraudulently.

Often the information required for the cheque fraud to succeed is provided to the networks by bank personnel.

In mid-2001 police cracked a major credit card syndicate linked to goods bought fraudulently, to the value of over R1 million each month, which were then re-sold for half their market price. Seven of the people arrested were allegedly linked to a Nigerian network. The credit cards were either obtained by the network in exchange for drugs, or stolen by prostitutes from clients.<sup>38</sup>

#### *Telephone scams*

Some Nigerian networks are involved in telephone piracy scams. They acquire a Telkom line using false documentation or stolen identity books, and then link this line to connections in Kuwait. From there the line is linked internationally. This allows someone in South Africa to phone the local Telkom line and be linked to any international number. The cost of the call will be billed to the fraudulently acquired Telkom line and will remain unpaid. Non-payment means that Telkom, which will find it virtually impossible to collect on the debt as the line was fraudulently obtained, will eventually disconnect the line.

The amount Telkom loses to this type of fraud is difficult to quantify because the networks often have accomplices within Telkom who are able to delete the evidence from computer records.<sup>39</sup>

#### *False documentation*

Nigerian networks rely heavily on false South African identity documents, not only to remain in the country but also to use in some of their fraudulent activities. Some of the ways these documents are acquired are as follows:

- stolen identity documents are bought from local criminals;
- they are acquired from corrupt officials in the Department of Home Affairs;
- identity books of deceased people are bought from mortuary workers.

In the Johannesburg suburb of Yeoville, identity documents can be bought for as little as R100.

Once the identity book is obtained the picture and certain details are altered to accommodate the new owner.

Several Nigerians have been arrested and charged with the sale of identity documents and possession of stolen passports, fake birth certificates and various other stolen or fake documents.<sup>40 41</sup>

#### *Dealing in stolen goods*

Like most criminal network the Nigerians are able to adapt to new opportunities. One such opportunity in South Africa is the market for stolen goods.

The goods are either bought from criminals for cash or are exchanged for drugs. They are then resold on the local market or transported to neighbouring countries, once again either to be sold or to be transported on to other African or European markets. Mozambique, Swaziland and Zimbabwe are usually the transport route for stolen or hijacked vehicles. While Nigerian networks have established contacts with local criminals, some vehicles are obtained from wealthy drug users who use their cars as deposits on drug purchases. These vehicles may then be fraudulently reported as having been hijacked.

The South African cellular phone market has also provided a lucrative opportunity for Nigerian networks, which buy the phones from local criminals or swap them for drugs. Through their contacts in the cellular business, Nigerians

get the stolen phones unbarred for a cost of approximately R250.00. Some phones are shipped to Zimbabwe where they are sold either on the streets or through dealers. The returns are channelled to the South African Nigerian networks, often in US dollars.

### *Money laundering*

Money laundering is an important aspect of the Nigerian networks' operations, as with most organised crime networks. For example:

- A number of Nigerians run legitimate businesses alongside their illegal operations, using the former to launder the proceeds of their criminal activities.
- Some own pawnshops through which they sell goods swapped for drugs.
- Western Union pay points have become crucial to the transfer of money. Western Union facilitates the transfer of cash anywhere in the world.
- Nigerians buy South African goods with money obtained from the proceeds of crime. Through their own import/export businesses they export the goods to other countries, like Nigeria, where they are sold at below market value.
- They register property or goods bought with the proceeds of crime under the name of a third person, often a lawyer or girlfriend.

### *Style of work*

Though Nigerian networks make extensive use of South African criminals as foot soldiers, the networks remain largely Nigerian controlled and run. Some have close relations with some other West African networks, such as the Ghanaians, with whom they work particularly closely around documentation fraud and AFF scams.

Nigerian networks generally avoid violent confrontations over turf, except in the Western Cape where conflict with local gangs has led to violence, especially in the Sea Point area. They do also employ people to carry out acts requiring violence when the need arises. Kidnappings have led to violence and, as indicated above, one kidnap victim is now presumed dead. They may also employ local henchmen to 'clean up' areas if this will improve business, and are prepared to buy goods from people involved in violent crime. They may also employ South Africans or others to carry out violent retaliation against those who double-cross them.<sup>42</sup>

Unlike many other networks, the Nigerians do not normally attempt to influence senior government officials to gain high-level support for their operations. However, they do make extensive use of corrupt lower-level government officials, especially in the Department of Home Affairs and in the SAPS, the former to help secure their place in the country and the latter to minimise the risk of detection. 'Street tax' is another term for the money paid to corrupt police, regarded as a necessary operational expense.

Men, usually aged 20–50, largely dominate the Nigerian networks. South African women are involved in the networks either at a low level as sex workers or as spouses to facilitate permanent residence.

### *Police response to the Nigerian networks*

A number of different police units have been involved in investigating Nigerian criminal networks and some arrests have resulted. However, although these arrests may have disorganised some of the individual networks, they have had little impact on the Nigerians' activities as a whole. Those arrested appear to be quickly replaced, while some seem to be able to run their operations from inside South African prisons.

## ***The Chinese Triads***

### *Background*

The Triads are among the oldest and most secretive organised crime networks in operation, dating back to the 1200s in China. After World War II, they were banned in China and the death penalty was imposed for contravening this ban. As a result, many Triads fled China and settled in Hong Kong and Taiwan.

Membership of a Triad is generally inherited, making it extremely difficult for outsiders to gain access to their top structures. Women are also actively involved: businesses are not only registered in women's names, but run by women themselves. Like their male counterparts, women are usually born into the Triads and marry within them.

Senior Triad members are often skilled and well received in other countries as respected investors. Many hold senior positions in legitimate businesses and are considered highly respectable business people in the countries where they operate.



Much like the Italian Mafia, but in a more sophisticated fashion, Triads hold notions of 'honour' and the crime 'family' in high esteem and have a strict code of conduct.

Unlike many of the other organised crime groups, the Triads are relatively tightly structured though they rely on networks of Taiwanese, Chinese and Koreans to carry out many of their activities.

#### *The Triads in South Africa*

Exactly when Triads first came into South Africa is unclear but their existence predates the 1990s. Members of the Triads may well have been among the first Chinese to come into the country. Certainly 'FaFi', a gambling game controlled by the Triads, was played on the mines in South Africa as early as 1902. Detectives in the Western Cape were aware since the early 1980s that Chinese criminal groups and Triad societies were more involved in criminal activities than it was previously thought. During 1992 the police were able to confirm that individuals linked to at least three different Triad societies were actively involved in a number of criminal activities.<sup>43</sup>

The presence of Triads in South Africa in recent years was also noticed in 1995 by the shipping industry, when a Triad member threatened shipping employees. However, prior to the 1990s the previous government seems to have encouraged some Triad businesses, assisting them with establishing factories in the so-called homelands, such as QwaQwa, from where labourers were recruited, often at slave wages. In an attempt at sanctions busting, some of the goods produced in these factories were sent to Swaziland for onward exportation as being Swazi-produced.

#### *Triad structures*

There are essentially three different Triad structures: the Red Dragons, who deal in most crimes except the trade in humans and human body parts; the Green Dragons, who specialise in the trade in humans; and the Yellow Triads, who are not involved in criminal activities as such but are financed by the two other structures to act as their cultural and religious arm.

The Triads operate in cells and there is increasing evidence that cells are operating in every province. Cells comprise a committee and executive committee of up to 24 people, three advisors, between two and five assassins, and a pool of up to 120 members. Each of these members runs networks of Taiwanese

who usually carry out the day-to-day illegal operations. Red and Green Dragons have different cells but may coordinate their activities.

#### *Areas of involvement*

The Red Dragons are involved in the following activities:

- *Under-declaration of imported goods.* Chinese Triads import goods under fictitious names and offload them into Taiwanese warehouses. The Taiwanese take responsibility for distributing these goods to the local market.
- *Dealing in 'grey' products and counterfeit goods,* including shoes, clothing and electronic items. This has a serious impact on the local economy as local manufacturers and industries find they are unable to compete with 'grey' products smuggled into the country.
- *Cheque fraud,* using banking contacts.
- *Dealing in endangered species,* particularly rhino horn, *perlemoen* and shark fin. Much of the trade in endangered species is destined for the East, particularly Taiwan.
- *Smuggling precious metals and stones,* particularly gold and diamonds.
- *High-tech crime,* including copyright infringement (e.g. production of fake compact discs).
- *Drug smuggling,* in particular heroin and mandrax. In the first half of 1999 policed seized more than a million rands worth of mandrax linked to Triad operations in Johannesburg and Durban.
- *Dealing in stolen goods.* Investigations by the SAPS into truck hijackings in Gauteng linked some of the cargo stolen during hijackings to a member of the Triads in Gauteng, who fled the country.

The Red Dragons make use of Taiwanese, Korean and Chinese people brought into the country specifically to run the day-to-day illegal transactions. The police are seldom able to arrest the Triads behind the crimes and Triad members are never found at crime scenes.<sup>44</sup> Some Red Dragon cells own their own shipping lines and clearing houses and the Triads appear to make extensive use of ships, ports and harbours to smuggle goods into the country.

The Green Dragons are responsible for any crimes involving trafficking in human beings and human body parts. This includes prostitution, child pornography, facilitating illegal immigration by Taiwanese and Koreans, and the trade in

body parts. Body parts are exported to China, Taiwan and Korea where they are sold for *muti* purposes.

They also deal in false documentation. In 1993, for example, a travel agency in Taiwan stole 400 passports from people planning overseas holidays, which were used by criminals to enter South Africa legally. Triad gangs also pay large sums of money (up to R20,000) to private South African immigration agencies in return for permanent residence permits from 'contacts' in the Department of Home Affairs.<sup>45</sup> In Singapore an immigration agency offers permanent South African residence to applicants in return for a US\$4 500 fee, for which they receive a South African passport and identity document. The agency claims the money raised is used to fund poverty relief in Southern Africa.<sup>46</sup>

When Taiwanese and other nationals are brought to South Africa to work for the Red Dragons, their travel and entry into the country is normally facilitated by the Green Dragons. Many are assisted by the Red Dragons in establishing legitimate business operations in exchange for their commitment to undertake certain tasks on behalf of a particular Red Dragon cell.

#### *Ensuring compliance*

Deviance from the Triads' code of conduct is often dealt with by kidnapping, usually carried out by one of a cell's assassins. In 1997, Chinese-related kidnappings accounted for 70% of all kidnappings in South Africa.

People who double-cross the Triads are likely to be assassinated but only on prior authorisation by a cell's chairperson. Intimidation is used to ensure compliance. In the shipping industry, for example, there were at least two cases in 1996 of shipping clerks and clearing agents receiving threats from groups suspected of being linked to the Triads.<sup>47</sup>

#### *Police response*

While some investigations into the Triads have been conducted, few have been able to reach beyond the level at which Taiwanese, Korean and low-level Chinese are involved in the day-to-day activities. Some police investigations face both a lack of information on the Triads themselves, as well as a lack of familiarity with shipping and customs procedures.

Like the Nigerians networks, the Triads often live in close proximity to each other and at times take over whole neighbourhoods. According to an ex-po-

lice officer, this makes them very difficult to monitor: "While you are monitoring a suspect's house, the Triad member living next door will be monitoring you and notify the person you are monitoring of your activities".<sup>48</sup>

As with the Nigerians, there is a need for police to look at information systems on the Triads and to make use of information that has been collected regarding Triad operations internationally.

### ***Russian organised crime networks***

The existence of Russian organised crime networks in South Africa appears to have first come to the attention of the SAPS in 1995. Since then their activities appear to have expanded. In 1998 the Minister of Safety and Security, while visiting Russia, expressed concern over the existence of organised Russian crime networks now operating out of South Africa. He told a press briefing that he had provided Russian authorities with a list of 23 Russians under investigation for criminal operations in South Africa.<sup>49</sup>

According to a police officer, since Russian networks first established themselves in South Africa they have become involved in arms smuggling, fraud, car theft, drug trafficking, prostitution, money laundering and uranium smuggling.<sup>50</sup>

As with many of the other transnational organised crime groups, there is no single Russian network but rather a number of small networks that appear to have close links to organised crime in their home country. The networks are largely centered round a few relatively powerful individuals, many of whom have historical links to the former KGB. In fact, it is believed that a number of these networks grew out of the KGB. A Scorpion member referred to the Russian networks as "ex-securicrats who have gone private".<sup>51</sup>

The Russian networks' membership appear to come mainly from the Ukraine and Georgia. The local network facilitates their entry into South Africa, often because they can offer the South African-based network a particular skill.

Many of the networks have based their establishment and assets on post-Cold War military stockpiles in Russia and have access to large arsenals of both light and heavy weaponry and planes. When they entered South Africa, they brought these assets with them. Planes have been registered in South Africa, Lesotho

and Swaziland and used to smuggle goods and weapons to various African countries. Aircraft piloted by Russians, including military transport planes, are known to land under cover of darkness to offload goods at some of the many small and unguarded airstrips around the country.<sup>52</sup> These planes are seldom serviced, but when they collapse they are merely replaced from the previous Russian armories.

#### *Types of criminal activities*

- According to a police investigator, Russian networks have played an important role in turning South Africa into a *trans-shipment zone for weapons smuggled from Eastern Europe* and destined for conflict zones in Africa.<sup>53</sup> The United Nations security reports on both Angola and Sierra Leone refer to the involvement of Russians in the supply of weapons.
- Like most other organised crime networks, Russians are involved in the *illicit drug trade*. For example, in August 1997 a freight container with 625,000 mandrax tablets on board was intercepted and linked to Russian networks. The drugs were being shipped to South Africa via Mozambique.
- Russian networks have been linked to the *theft of solar power technology* from Eskom. The network uses Russian scientists to adapt the technology, which is then sold privately through companies specialising in technology.<sup>54</sup>
- They also appear to be linked to *illegal casinos*, some of which have in turn been linked to the supply of drugs to gangs in the Western Cape.<sup>55</sup>
- One network is being investigated in relation to *fixing horse races* in the Western Cape.<sup>56</sup>
- They appear to be involved in a number of *smuggling networks*, their main role being to provide transport.
- Russian networks are also involved in *prostitution*. Girls from the former Soviet Union are lured to South Africa with promises of jobs. The Russian network pays their airfares but once they arrive in the country no jobs materialise and they are told that they now owe the network for their airfare. They are then forced to work as prostitutes to pay back this money.<sup>57</sup>
- *Immigration fraud* and securing *false documentation and residence permits* for people wishing to enter the country is another area of activity. Most of the people whose false documentation these networks facilitate are from Eastern Europe.

- Russian networks are also involved in *art smuggling* and appear to be involved in cleaning out some of the most prominent art galleries in the former Soviet Union. South Africa is both an end destination and a trans-shipment route for artwork.<sup>58</sup>
- Like most other transnational networks, the Russians rely on various schemes to *launder money*, for example by using front companies. They also send large sums offshore. A money-laundering scheme used by one network involves properties being bought and resold without title deeds being transferred.<sup>59</sup>

Russian networks are not above the use of violence in their criminal activities and, like the Chinese, use 'hit men' for this purpose. Violence can take the form of threats, assault and intimidation and can also extend to assassination.

Their operations in South Africa appear to be expanding. Some networks have historical relations with government organisations, such as Armscor. Investigations into their operations are hampered by relationships between senior government officials and elements within the networks. Corruption of senior politicians and government officials enables the networks to secure the cooperation of lower level functionaries in various government departments, thus facilitating their criminal activities in a variety of areas.<sup>60</sup>

#### ***Pakistani organised crime groups***

Pakistani organised crime groups are among the least documented in the country. They are also very difficult to penetrate and define. One reason is that there are close cultural and religious ties between Pakistani groups and many local criminals, making it easy for Pakistani groups to merge with their local counterparts and become absorbed into local communities and, conversely, making it difficult to differentiate between them or to detect the Pakistanis as identifiable transnational groups.

There is also a long-standing history of cooperation around smuggling operations, especially the trades in mandrax and counterfeit goods. Initially local people dealt directly with criminal groups in Pakistan. More recently some Pakistani drug dealers have moved to South Africa and, although they continue to work alongside local criminal networks, they are also settling in the country, developing new relationships and playing a role in diversifying and developing new markets.

Unlike the Nigerians, who developed structures independent of the Nigerian-based networks, Pakistani groups in South Africa still have extremely close ties and contacts with home-based networks.

Some of the Pakistani networks appear to have linked up with other transnational groups, such as the Chinese: more than 100 people attended a recent meeting of Pakistani and Chinese organised crime members at Sun City.<sup>61</sup> Unlike the Chinese, however, the Pakistani networks are not highly structured. They are rather a number of loose networks, overlapping in many cases with South African criminal networks.

#### *Drug trafficking*

Historically Pakistani networks have been centrally involved in the trafficking of both mandrax tablets and the methaqualone product used in the manufacture of the tablets. Mandrax is brought into South Africa through the ports and harbours in containers, or overland through neighbouring countries. Pakistani-linked networks also operate out of Mozambique, which is increasingly being used as a trans-shipment point for mandrax and methaqualone destined for South Africa markets. Mozambique is also a key transit point for heroin destined for South Africa or for transporting on to European markets.

Recently, significant quantities of hashish have been brought into South Africa for local distribution. Pakistani networks are also involved in the distribution of a product known as 'Temple Ball', which, according to drug users, is a mixture of opium and hashish. It is relatively new on the South African market and Durban appears to be one of the main points of distribution.

#### *Dealing in 'grey' products and counterfeit goods*

Like the Chinese, Pakistani networks are also involved in importing 'grey' products and counterfeit goods, which are then sold on the streets or through retailers.

#### *Customs and other fraud*

Closely linked to the trade in 'grey' products and counterfeit goods is the practice of customs fraud through the incorrect or under-declaration of goods imported through ports and harbours. Fraudulent Bills of Lading are used to get these goods released and, like the Chinese, the Pakistani networks also make

use of their own clearing and forwarding agents. The networks are also involved in documentation fraud and credit card and cheque fraud.

#### *Sweatshops*

In Gauteng and the Western Cape, sweatshops run by the networks use the labour of illegal Pakistani immigrants, often brought in specifically to work in the sweatshops, as well as refugees from other African countries. South African labour is also used but to a lesser extent.

#### *Telephone scams*

Pakistanis are also involved in telephone piracy scams that operate on a similar basis to those conducted by the Nigerian groups. Pakistani-linked groups run cellular telephone scams, too, wherein duplicate sim cards are obtained from contacts in the industry and used to run up large accounts under the names of legitimate contract-holders.

#### *Trade in humans*

Criminal networks take advantage of the variety of Pakistanis wanting to come to South Africa for legitimate reasons, such as refugees and social and economic migrants. For example, the networks offer to assist with securing identity documents on behalf of immigrants, but then use the identity documents for illegal purposes. Those who are helped by the networks in securing residence permits or through having travel costs paid may be forced to repay their debts by working in sweatshops or by selling illegal goods on the streets.

Like the Nigerians, many of the Pakistani people who enter the country illegally marry local South Africa women in order to secure their stay in South Africa. They also use false identity documents bought through contacts in the Department of Home Affairs.

#### *Use of front companies and documentation fraud*

Some Pakistani groups use registered companies to conduct their smuggling operations. When the company comes to the attention of the authorities they sell the company to a third person, often to one of the Pakistanis whose trip to South Africa they have facilitated. They then use the same company under its new ownership to continue to run their operations. False documents and fraudulently acquired identity documents are used to register new companies.

Recommendations

Once transnational organised crime groups have gained a strong foothold they are extremely difficult to displace. However, there are a number of ways in which South African authorities could impact on the transnational networks currently in the country, both in terms of short-term disruption of their activities and longer-term deterrents. These include the following:

Investigating corruption in the Department Home Affairs

Corruption in the Department of Home Affairs is central to the operations of several transnational crime networks. An effective investigation into the operations of this Department, in particular, could both disrupt existing crime networks and make it harder for new ones to gain a foothold.

Use of asset forfeiture

As mentioned above, Nigerian networks make use of specific blocks of flats and hotels. Seizure of these locations under the Prevention of Organised Crime Act would have an impact on some of their operations.

Deportation

Drug laws in some countries from which organised crime members originate, such as Nigeria, are far harsher than those in South Africa. Further, prison conditions are far worse in some of the criminals’ home countries than they are in South Africa. Deportation of foreign criminals to face harsher prison sentences and worse prison conditions in their home countries could act as a deterrent.

Co-ordination of information

There are a number of different police units that are focus on the same networks but investigate different crimes. There is a need for this information to be collated and profiles on the different networks developed.

South African organised crime groups

Domestic organised crime groups are involved in virtually every area of criminal activity engaged in by transnational groups—from drug trafficking to fraud, from the trade in humans to ‘419’ scams. In some cases they work cooperatively with transnational groups, such as the involvement of local groups with Pakistani drug traffickers, while in others they work on their own. Within the limitations of this study it is not possible to go into detail on every area of activity of domestic organised crime. However, there are three areas in which domestic groups are particularly prominent, namely vehicle hijackings, cash-in-transit heists and crimes associated with the taxi industry. These are looked at below.

Vehicle theft and hijackings

The theft and hijacking of vehicles is a major area of involvement of domestic organised crime groups in South Africa. Though not all vehicle thefts are hijackings, and not all hijackings involve organised crime, according to police more than 50% of stolen or hijacked vehicles are smuggled out of the country into neighbouring states by organised crime groups, often involving a combination of local groups and transnational networks.

The numbers of vehicles involved are significant: from January 1996 to June 1999, 65,528 cars and trucks were hijacked in South Africa. In 1999 alone 10,783 hijackings were reported to the police, while 103,502 motor vehicle and motorcycle thefts were recorded.

Table 1: Vehicle hijackings, 1996–1999					
Type of vehicle	1996 No. of vehicles	1997 No. of vehicles	1998 No. of vehicles	1999 No. of vehicles	Total No. of vehicles
Car	12,860	13,011	15,111	7,886	48,868
Truck	3,694	4,296	5,773	2,897	16,660
Total	16,554	17,307	20,884	10,783	65,528

Those involved in stealing or hijacking vehicles range from groups of petty criminals to highly sophisticated organised groups with extensive local and transnational links. The latter often operate in terms of 'orders' for specific makes or models of vehicles from buyers both within South Africa and outside its borders. Similarly, those who take possession of illegally acquired vehicles range from legitimate used car dealers and their customers, who may not be aware the vehicle is stolen, to chop-shop owners,<sup>62</sup> and to sophisticated groups involved in transnational vehicle smuggling. Vehicles transported to other countries are either sold on the local market there, or swapped for drugs or other illicit commodities, or transported still further on. Corrupt officials at border posts facilitate the transfer of vehicles across South Africa's borders with its neighbours.

#### *Fraudulent hijackings*

An estimated 20% of all vehicle-hijacking reports are thought to be fraudulent and there are now a number of organised networks specialising in this type of crime. However, as there has been no real focus on fraudulent hijackings, accurate figures are hard to obtain. Further, these crimes often go undetected by police and so do not get included in crime statistics.<sup>63</sup>

There appear to be three main types of fraudulent hijackings:

- Hijacking of *non-owner truck drivers*, where drivers are in collusion with criminals and stage a hijacking (or remove and dispose of the truck's cargo, and dispose of the truck itself) and then report the vehicle as having been hijacked.
- *Car hijackings*, where vehicle owners arrange to hand their vehicles over to criminals and reports them as having been hijacked, or where the owner of a car disposes of it in some other way and then reports it as having been hijacked.
- There are also cases of *insurance fraud*, where a vehicle has been stolen but the driver fraudulently reports that he was hijacked because of a mistaken belief that insurance companies are more sympathetic toward hijacking victims.

Some individuals and small groups have been involved in instigating and carrying out fraudulent hijackings. However, it appears the vast majority are orchestrated and carried out by people linked to large and sophisticated crime networks. Some networks are extensive: a truck company operator described an initiative by police and the private sector in 1995, which began by investigating one person and ended up investigating 475 people, all linked to one network.<sup>64</sup>

These networks are sometimes involved in genuine hijackings, in which the vehicle itself is the target, but those are generally only a small aspect of their operations: most resources go into fraudulent hijackings.

#### **FRAUDULENT HIJACKING OF TRUCKS**

A number of people in the transport industry suggested the degree of fraud involved in truck hijackings is as high as 90%. The owner of a trucking company who has worked closely with police in trying to solve cases of truck hijacking gave the following figures, for example:<sup>65</sup>

Real and violent truck hijackings:	2%
Hand-overs of trucks by drivers to crime syndicates:	90%
Hijacking of people involved in smuggling (not reported to the police):	3%
Companies who hijack their own trucks and claim insurance:	5%

Reports of truck hijacking began to emerge in 1995 and have escalated rapidly since then. If even a conservative estimate puts the extent of fraud in truck hijackings at 70%, this would mean that of the 13,763 trucks reported as hijacked between 1996 and June 1999, at least 9,634 cases were fraudulent.

In the early years of truck hijackings, most targeted the truck itself and not just the cargo. Trucks were then normally taken across the border into one of the neighbouring states. The majority involved driver collusion. However, more recently it appears that the cargo carried by trucks is the real target of hijackers. In these cases the cargo does not normally leave the country but is sold off within its borders.

There appear to be four categories of people involved in fraudulent truck hijackings:

1. *Individual drivers* who decide to steal the commodity they are transporting, and/or the truck, and then report that they were hijacked. In such cases the operation is generally not sophisticated and the goods are sold to small shops or even off the back of the truck. Such cases occur sporadically and are not a major contributing factor to the high levels of fraudulent hijacking.
2. Certain *companies* are involved in 'hijacking' their own trucks in order to claim on insurance for the cargo. Most are relatively small operators and normally resort to these activities when they get into financial trouble.
3. Some *small syndicates* operate within a defined geographical area and the

goods are sold to clients in the same area. There are more than 60 such syndicates operating in the Durban area alone.

4. The final category comprises large and highly *organised networks*. They are extremely sophisticated, are linked to other criminal activities (such as container theft, illicit import operations etc.), and are beginning to absorb the smaller syndicates. They sell the goods stolen in truck hijackings to both large and small traders. According to a truck company owner, four such networks operated in 1995–96, including one domestic network (the others were run by Portuguese, Lebanese and the Chinese Triads).<sup>66</sup>

Investigations by both the private sector and select police units have revealed that the more sophisticated networks have a number of levels of operation:

*Level one comprises legal businesses that receive stolen goods.* Many buy stocks from legitimate suppliers but supplement them with stolen goods. They are aware that the goods are stolen. Included in this level are some large and well-known stores and dealers.<sup>67</sup> Once goods enter this level it is impossible to identify them as stolen: buyers are normally able to merge legitimate and stolen goods and produce the relevant receipts.

*Level two, also known as the 'orchestrators', consists of the main players in the networks:* they make deals with level one and manage level three. They often have legitimate operations running alongside their illegal operation.

*Level three consists of middlemen, who approach drivers and buy them off and carry out staged hijackings.* Usually colluding truck drivers only have contact with this level. Operators are recruited from hostels in Gauteng, among other areas. If a crime network is also involved in container theft, providing false transport documentation and in genuine hijackings, the people involved in these activities will also be level three operatives.

*Level four, the final level, comprises company employees and owner-drivers who cooperate with the network.* A colluding driver can make anything from R15,000 to R50,000 per hijacking, depending on the cargo.

Additional people linked to the network include corrupt police officers who inform it about police operations, tamper with police dockets or arrange for them to disappear.

In some cases the networks are also involved in other forms of illicit trade. In

the sugar industry, for example, a network imports sugar illegally and sells it to large stores. During the periods between shipments, the network needs to retain its buyers and so it buys some sugar legally and supplements it with sugar stolen from hijacked trucks. In this way, the supply of sugar to the network's buyers is not interrupted and costs are kept below market prices.

Although the networks involved fraudulent hijacking usually act with the collusion and cooperation of drivers, violence is used if it becomes necessary. Drivers may be intimidated into cooperation by being given death threats, or may be physically harmed.

A company risk manager said company investigations into the death of a particular driver showed that he was murdered for refusal to cooperate with the hijacking network, thus sending a message to other drivers who refused to cooperate.<sup>68</sup>

A number of companies have assisted their drivers to purchase their own trucks and have then contracted these owner/drivers to transport cargo. In the past few years, Autonet, part of a black empowerment scheme, has assisted drivers to purchase their own trucks and obtain contracts to drive for large companies.

Like employee drivers, these owner/drivers are also targeted for recruitment by networks. A number have been involved in fraudulent hijackings, particularly where they cannot afford the monthly installments on their trucks. When hijacking involves the cooperation of the owner/driver, the truck is often found in close proximity to where the hijacking occurred. According to one such owner/driver, the reason is that the truck is the driver's livelihood and while he may agree to a fraudulent hijacking of his cargo, he will want his truck to be returned quickly and in good working order.

#### FRAUDULENT HIJACKING OF CARS

As is the case with truck hijackings, there are a number of different types of fraudulent hijackings of private cars, including the following:

- Individuals who wish stage their own hijacking because they want to claim from insurance on their vehicle.
- People whose vehicles are stolen but who report them as having been hijacked. Some people mistakenly believe that insurance companies treat cases involving hijackings more sympathetically than those involving cars which have simply been stolen, and further, that insurance companies pay

out more quickly in these cases. Though insurance risk consultants deny they are more sympathetic in these cases, the perception that they are still exists.

- Those who use the report of a hijacking as a means of registering a car previously stolen or hijacked. Criminals purchase the papers of a car that has been stolen or written-off from the owner, hijack or steal a car that is the same model and colour as the papers they have purchased, file off the chassis and engine number, and, using the papers they have bought, report they were hijacked. Shortly afterwards one of their group reports having seen a suspected stolen vehicle. When the police recover the vehicle they discover that it fits the description of the 'hijacked' vehicle. Clearance is then given for the vehicle to be re-registered. The process of re-registering a stolen or hijacked car in this manner can be done within a day, sometimes suggesting police involvement.
- Large networks that target people with financial problems and offer to 'get rid of' their vehicles so that the owners can report a hijacking and claim from insurance. The car is then sold illegally. In most cases it is the network that makes the first approach to the car owner, and not the other way around.

Car hijacking also operates on several levels:

*Level one comprises buyers who approach the networks and place orders for particular types of vehicle.* The vast majority are from other African countries, with the largest number at present coming from the DRC and Angola. Some 90% of the cars fraudulently hijacked are taken across South Africa's borders.<sup>69</sup> Foreign buyers use certain hotels to make contact with the networks. In most instances the vehicles are paid for in US dollars.

*Level two comprises the orchestrators,* similarly to those involved in fraudulent truck hijackings. They liaise with or manage all the other levels.

*Level three includes employees of banks and insurance companies, car salespeople, and garage workers.* They receive lists of the types of cars required and check their records for anyone with a vehicle that fits the requirements who also has financial difficulties. They then provide this information to level two orchestrators. It appears that the networks have level three individuals at a senior level in most of the major banking houses.<sup>70</sup>

*Level four entails those who make the approach to car owners identified by level three individuals.* They also facilitate the staged hijacking.

Finally, *level five includes colluding car owners* whose vehicles match those ordered by organised crime networks and who hand them over and then report their vehicles as stolen or hijacked.

Like the truck hijacking networks, those that target cars also make use of police officers to protect their operations. In addition, because the vast majority of the vehicles are destined for 'export' to other countries, the networks need the cooperation of corrupt border police and customs officials. The Beit Bridge Border Post One is believed to be one of the worst border posts in this regard.<sup>71</sup>

Once the vehicle is outside the country it is reregistered in a new name. By the time the 'hijacking' is reported, the car is safely across the border.

#### *Implications of hijackings*

Fraudulent hijackings are not usually violent crimes; drivers who cooperate are not injured or placed in life threatening situations and as a result this type of crime is often not taken as seriously as others. However:

- Although the vast majority of hijackings are fraudulent and the networks responsible do not need to engage in violence, they are nonetheless prepared to resort to violence when necessary. When drivers refuse to cooperate they are threatened and in at least one incident a driver was killed. In addition, if the networks are unable to obtain the necessary vehicle or cargo through fraud, they do resort to genuine hijackings.
- Criminals involved in some of the networks do not confine their activities to fraudulent hijackings alone and are involved in other forms of crime, including theft and illegal importation.
- A number of the networks appear to be consolidating themselves and unless this is addressed they are likely to become extremely powerful.
- This type of hijacking, particularly where it involves the networks, has a serious impact on the economy. Fraudulent hijackings inflate figures and make insurance companies hesitant to insure cargo transporters without heavily loaded premiums. These costs ultimately get passed on to consumers.



- Fraudulent hijackings, especially where cargo is involved, mean that criminals are able to offer highly competitive prices on stolen goods, thus undercutting legitimate operators. More and more legitimate operators are likely to be forced into buying from the networks in order to remain competitive themselves.
- The impact of hijackings on investment is potentially serious: investors may become less keen to invest if the transportation of their products around the country is put at risk.
- High car hijacking figures may also deter tourists and have a detrimental effect on South Africa's image.

### ***Cash-in-transit heists***

Cash-in-transit heists became prominent in the 1990s, largely as a result of improved bank security in the wake of a spate of armed bank robberies. No single organised crime network is involved in cash-in-transit heists; rather, groups are formed out of people with particular skills who come together on an *ad hoc* basis to carry out specific jobs. The group's structure takes shape around the job in question and can involve anything from five to 20 people.

Cash-in-transit heists can be broadly delineated according to whether or not an insider is involved.

#### *Those where no insider is involved*

These heists generally involve two to three people, who scout around for a suitable target vehicle, acquire the relevant information about the vehicle, its contents and its guards through their own reconnaissance, and draw up a detailed plan for the heist. This scenario requires a lot of groundwork as well as skills and stealth to avoid detection during the reconnaissance. Those involved in the reconnaissance invariably lead the ambush and are physically present when it occurs. Heists where no insider is involved are in the minority.

#### *Those involving insiders*

The majority of cash-in-transit heists are carried out as a result of inside information supplied by security guards working for cash-in-transit companies.<sup>72</sup> The criminals usually approach the guards, but there have been cases of guards initiating the approach and offering to provide information.

The planners of the heist verify information on routes and possible targets provided by guards by conducting their own reconnaissance. Guards usually provide information on routes where they will not be working when the ambush happens: on occasion guards have given information on their own routes and have been killed by those involved in the heist to avoid the possibility of them identifying the criminals at a later stage.

The sale of information by security guards has become a large business and some guards have provided information repeatedly over a long period of time. Some work with a variety of criminal groups. Where success is achieved as a result of a guard's information, links between the guard and the heist group become continuous.

Police personnel also provide information to heist groups. Usually this relates to the likely security response the group can expect; however, in some cases police personnel have been involved in the planning of heists and have even been present during the actual ambush.<sup>73</sup>

#### *Modus operandi*

Cash-in-transit heists are violent by nature but the degree of violence depends on, among others, the types of weapons carried by guards, how guards respond, the sums of money involved and the guards' level of training.

The ambush itself often involves ramming the cash-in-transit vehicle with a 4x4 vehicle in a way that immobilises the driver; this is followed by heavy gunfire to trap the guards inside the vehicle. Once the guards are either dead or completely immobilised the risks are reduced accordingly and the cash can be easily removed.

Strict security measures, such as increased police patrols around particular areas, have led to a slight decrease in heists in some areas (particularly Gauteng) but this has been followed by an increase in others (such as KwaZulu-Natal), suggesting the operations have simply relocated.

The high risks involved in heists are matched by high potential rewards, and there still appears to be a large pool of people prepared to take these risks. In a few instances, police personnel themselves have participated in heists.<sup>74</sup>

### *Taxi groups*

The competition resulting from the expansion of the taxi industry in South Africa has brought turf wars with it, and powerful individuals and taxi associations have emerged. Many of these taxi associations are tightly structured and make systematic use of bribery, extortion, corruption and violence to ensure profitability and eliminate competition.

Indications are that a significant number<sup>75</sup> have groups of armed individuals available, on either a permanent or an *ad hoc* basis, for acts of violence and intimidation. Their movement, with individual hit men carrying out attacks in more than one area, indicates a level of coordination between geographic centres like Durban, Nongoma/Ulundi and Johannesburg.

Groups within the taxi industry are also involved in extortion. In KwaZulu-Natal, for example, an organised group of 10 to 12 people in Phoenix collects money on a weekly basis from individual drivers or owners, and has also been linked to drug trafficking. A similar approach is used by some associations involved in violence to pay for the services of hit men and to raise bail and legal fees for these men when they are arrested.

A number of taxi associations are also involved in the purchase and use of stolen vehicle parts. The taxi industry is one of the key selling points for stolen vehicles and parts, with a large capacity to absorb them regularly and swiftly and to distribute them away from areas in which they were stolen.

Corruption is also an essential component of many of the taxi networks' operations: bribes are paid to traffic police and transport officials for permits, route allocations and false licenses. Similarly, evidence has emerged of payments made to SAPS officials to either derail investigations or themselves take part in acts of violence. Similar payments have been made to Department of Justice officials to subvert court proceedings by 'losing' dockets.<sup>76</sup>

Some of these networks are also involved in smuggling: their mobility makes them ideal partners for the transportation and distribution of illicit goods such as drugs.

Corruption associated with the taxi industry not only subverts the criminal justice system; the impunity with which groups appear to operate, partly in consequence of corruption, undermines the state's ability to regulate the industry and to facilitate its re-capitalisation.

Dominant groups operate with impunity, leaving legitimate operators with few options—they can become part of criminal networks, or can operate independently but with no protection against constant extortion, intimidation and violence, or they can leave the industry.

Despite some successes by police and the criminal justice system, (namely in the Western Cape, linked to attacks on Golden Arrow buses and in KwaZulu-Natal with arrests in Umlazi and northern KwaZulu-Natal), the level of taxi violence has escalated in some areas.

## **Organised crime and corruption**

Corruption is defined as:

unlawful, intentional giving or offering to give any benefit not legally due in circumstances where there is a prohibition, or any offer or acceptance of such benefit, in return for commission or omission of an act in relation to certain powers and duties.<sup>77</sup>

In a paper by Anthony Minaar presented to the Ninth International Anti-Corruption Conference the author refers to the symbiotic relationship between organised crime and corruption, wherein the enlisting of corrupt officials is an essential ingredient in the success of organised crime groupings.<sup>78</sup>

He also refers to the attention given to corruption in the media, which has created the impression that corruption only became a problem after 1994. However, although corruption has been in existence in South Africa for many years (the 'Info scandal' is one prominent example), prior to 1994 the bulk of corruption went unnoticed, at least partly because of a lack of transparency in government and a lack of institutions specifically focusing on corruption.<sup>79</sup>

In the post-1994 period a number of factors have contributed to the public focus on corruption, including:

- the establishment of a number of bodies, institutions and non-governmental organisations (NGOs) that specifically focus on good governance;
- greater press freedom; and
- the existence and development of bodies, commissions of enquiries and legislation aimed at combating corruption.

All these factors have led to greater transparency in recording and reporting on corruption.

There is, however, another reason for the increased public focus on corruption, which relates to a real increase in the extent and nature of corruption. Much of it is linked to the dramatic increase in organised crime networks in the country post-1994. These networks rely heavily on corruption not only to ensure the free movement of illicit goods and to facilitate money laundering, but also to minimise the risks of arrest and prosecution. Corruption is critical to the networks' success and forms a central component of their operations, with the money spent on corruption being regarded as a necessary operating cost. Many networks have links with corrupt officials across the country.

Increased levels of corruption in the country have therefore accompanied the expansion of organised crime.

Corruption is extremely difficult to investigate and even more difficult to prosecute. There must be at least two parties involved in any act of corruption, the person doing the corrupting and the person being corrupted. It is often extremely difficult to get both parties prosecuted.

Recompense for corrupt acts can include, among others:

- payment of money;
- 'free' services such as food, liquor, accommodation etc;
- paid holidays;
- the transfer of certain goods or properties, such as motorcars or houses;
- sexual favours; and
- unearned benefits for families and friends.

Corrupt acts can include, among others, bribery, fraud and embezzlement, nepotism, dishonesty, knowingly breaking laws and wrongfully influencing decisions.

Public attention has been focused on government officials involved in corruption. However, corruption is also a problem in the business and professional sectors but receives far less attention. Much of it goes unreported or undetected for a number of reasons, including:

- poor management and accountability;
- management failing to report such activities because of the negative impact it may have on the company concerned; and
- protection of certain professionals by ethics and professional practices. For example, corrupt lawyers can be extremely difficult to investigate because of confidentiality ethics.

Despite the lack of public focus on the corruption of business and professional actors, their involvement in corruption is often as important to organised crime networks as is that of government officials. Many of the organised crime groups, for example, rely heavily on banking personnel to carry out fraudulent activities.

### ***Examples of corruption in businesses and government departments***

Corruption exists at almost all levels of government and across all departments. Corruption in the business and professional sectors is equally pervasive.

This section focuses on those sectors of business and government whose involvement in corruption is essential to a number of organised crime groups currently operating in the country.

#### *The Department of Home Affairs*

Many of the transnational organised crime groups rely heavily on the Department of Home Affairs in acquiring fraudulent documentation for their members. Some networks are also involved in selling fraudulent documents to non-South Africans. Some of the domestic networks, too, make use of fraudulently acquired identity documents to commit criminal acts or to change their identity to avoid detection.

According to Minaar, "the eradication of immigration corruption would go a long way in disorganising and slowing down the flow of more organised transnational criminal groupings".<sup>80</sup>

A recent report by the Public Services Commission on the functioning of Home Affairs highlighted corruption as one of the Department's major problems. Interviews with police officers seem to support this finding, with many complaining of extensive corruption at all levels in the Department.<sup>81</sup>

According to a Johannesburg-based NGO member, any kind of documentation is for sale from Home Affairs, including passports, resident permits, birth and marriage certificates, etc. Certain of these documents can even be bought in the street outside the Home Affairs office in Market Street in Johannesburg.<sup>82</sup>

In January 1994 the Aliens Investigation Unit cracked a Chinese group dealing in false and stolen documents. This group entrapped Home Affairs officials by approaching them, first, with legal applications. Once an official granted an application, s/he would receive a gift from the group as a 'thank you'. As more applications were brought to the official, the gifts would get bigger, eventually including predetermined cash amounts for specific transactions. Eventually the officials involved found themselves caught up in a web from which they could not extricate themselves.

Documents were supplied at the following rates:

- R250–R1,000 for a temporary residence permit;
- R400–R1,000 for a work permit;
- R3,000–R7,000 for a passport or identity document;
- R4 500–R12,000 for a permanent residence permit; and
- Up to R27,000 for false bank certificates (used to substantiate that a person is financially independent).<sup>83</sup>

In one year, police estimated that there were approximately 30,000 false work permits in circulation in the country.<sup>84</sup>

Also in 1994, 2,000 blank passports and 1,525 identity books en route to Mpumalanga, KwaZulu-Natal and the Eastern Cape were stolen from the Department of Home Affairs.

In 1995, police arrested members of a large network in Pretoria, which had been supplying illegal immigrants with false documentation. During a raid police sized hundreds of false identity documents, marriage certificates, blank birth certificates, matriculation certificates, fingerprint forms as well as stolen or forged officials seals and stamps. The network was suspected of selling over 4,186 false identity documents. Some were allegedly sold to Chinese and Taiwanese individuals, for R900 each.<sup>85</sup>

It is not uncommon for corrupt officials to 'create a background' for people by entering fictitious names and details into the computer database of the Popula-

tion Register. This is then used to apply for late birth certificates and then for other documentation.<sup>86</sup>

Examples of Home Affairs officials' involvement in supplying false documentation are endless. Minaar refers to a Home Affairs official, himself an illegal immigrant, who was involved in supplying false documentation and had been working in the Department for more than seven years under a false name.<sup>87</sup>

The more sophisticated networks are unlikely to be found queuing outside Home Affairs for documentation: they have contacts at a more senior level in the Department to secure the documentation they require. Less sophisticated criminals and criminal groups have to go through the queues at the Department's offices. In such cases, a Home Affairs interpreter is often used as the link person. The person 'buying' the documentation pays the interpreter, who, after taking a cut, approaches the Receiving Officer, the official responsible for interviewing foreigners applying for residence in South Africa. The Receiving Officer is given the balance of the money to distribute to different officials as required. The Receiving Officer involves the Regional Status Determining Officer in approving the application. The person 'buying' documentation does not necessarily even deal with any Home Affairs officials or employees, other than the interpreter.

In April 1998 the Department of Home Affairs established an in-house Anti-Corruption Unit tasked with investigating corruption. However, there has been serious criticism of this unit. For example, some say the problem with the unit is that it started from the premise that the problem is not in Home Affairs but lies with outsiders who try to corrupt officials.<sup>88</sup> The Public Service Commission also criticised the unit as lacking capacity to deliver on its mandate.

### *The Department of Correctional Services*

Corruption in the Department of Correctional Services (DCS) is also rife and is found at all levels. It takes a number of different forms, including:

#### **CORRUPTION-LINKED JOB ALLOCATION**

In May 2001 the Deputy Provincial Commissioner of the DCS in KwaZulu-Natal, Thuthu Bhengu, was gunned down at her home in Pietermaritzburg while she was finalising a report on her investigations into corruption in the DCS. The report was to be presented in Pretoria the following day.

The report dealt with allegations that members of a recruitment committee, established to select, interview and hire applicants for positions in the DCS, had been taking bribes of up to R5,000 from job applicants. Bhengu earlier recommended that the committee should be disbanded. Ten days after her death it was, but it has subsequently been re-established.

During the same month the National Directorate of Public Prosecutions, dubbed the Scorpions, arrested two officials of the DCS in Pretoria for similar crimes. They were allegedly part of a group selling interviews to job applicants for R1,000 each.

#### **WARDERS WHO COOPERATE WITH CRIMINAL NETWORKS**

Groups of warders cooperate with criminal networks both inside and outside the prisons. They sometimes act as conduits for smuggling networks, either by bringing contraband goods (drugs, food, alcohol, cigarettes, etc.) into the prisons themselves or by facilitating them being brought in by the contractors who normally provide prisons with legitimate supplies and services. The warders ensure the contractors are not searched.

In some instances warders are active participants in the networks while in other cases they are paid to turn a blind eye to such activities.

The warders are paid either in cash by the prisoners themselves, or by the prisoners' contacts outside the prison. Warder's services are also paid for in goods bought by prisoners from the prison tuck shop, which are re-sold by warders within the prison.

#### **PAYMENT FOR SERVICES RENDERED**

Everything in prison works on currency, or payment for services rendered. For example, some warders accept bribes to allow prisoners to run informal, illegal tuck shops in prison, stocking goods smuggled in by warders or contractors. (These are in addition to the official tuck shops in all prisons, where limits are placed on how much prisoners may spend.)

Corrupt warders provide a variety of services in return for payment: for example, a prisoner may bribe a warder in order to get a video machine or television, or to be granted permission to bring one in. Or, if a prisoner wishes to move from one section of the prison to another, he may bribe a warder to facilitate the move.

Corrupt prison officials may also be bribed to allow a prisoner to get extended visits, or visits that are not recorded. This allows certain categories of prisoners to exceed the limit of the number of visits they are allowed and also allows people to visit prisoners with relative anonymity. An unrecorded visit requires the involvement of at least three corrupt officials: the warder at reception, the warder in charge of the section the prisoner is from and the official supervising the visit.

Payment for visitation services apparently takes place in one of two ways:<sup>89</sup> the visitor either leaves the money in an envelope at reception, or pays the prisoner who in turn pays the warders. The visitor seldom pays the warder directly. Alternatively, the money can be deposited into the prisoner's account and the prisoner then ensures the warders get their cut.

According to a journalist who has investigated prison corruption, visits outside the prison can also be arranged in return for payment. In such cases the prisoner is usually booked out for a medical visit, which generally entails being taken to a state hospital accompanied by a warder. For a price some warders allow access to the prisoner at the hospital.<sup>90</sup>

Though each prison has its own anti-corruption unit, they are not particularly effective. One problem is that warders who may be unwilling to participate in corruption are intimidated into it, either by other warders, or by organised crime groups. As one warder put it, "If you want to stay alive it is better not to fight this corruption but to participate in it".<sup>91</sup> Also, corruption extends to all levels and the involvement of senior prison officials, either actively or by merely turning a blind eye to these activities, makes the work of the anti-corruption units that much harder.

Corruption in the DCS offers an important opportunity to organised crime networks. Not only does it allow these networks a more 'comfortable' stay in many South African prisons, but if key people in the networks are arrested it also enables them to continue running their operations from prison and even to use the prisons as a new market for their operations.

#### *The South African Police Service*

Corruption in the SAPS is essential to organised crime networks. It takes a variety of forms, including those listed on the following page.

**TURNING A BLIND EYE TO SPECIFIC CRIMES**

The money involved in such cases is often more than a police officer can make in a year. A police officer interviewed claimed that he had been offered R200,000 to turn a blind eye to a 20 kilogram cocaine deal by a group of Nigerians. In the same way as with the Department of Home Affairs, once a policeman takes one bribe it becomes impossible to get out of the web.

**DESTROYING EVIDENCE AND DOCKETS**

There are numerous instances where police are paid to destroy evidence and lose dockets. Some police officers lose the dockets of suspects that they are linked to, while others sell or lose dockets for anyone for a fee. In June 2001 it was discovered that 2,700 dockets were missing from the police station in Soweto.<sup>92</sup>

**INVOLVEMENT IN CRIMES**

Some police officers have been involved in heists, assassinations, drug trafficking etc. Sometimes police officers are not merely contacts for the crime networks but actually play a central role in them.

**PROVIDING INFORMATION**

Police officers have been recruited by organised crime groups to provide information on anything from police deployment plans to the names of witnesses testifying against the groups.

**ASSISTING IN THE REGISTRATION OF STOLEN VEHICLES**

Some police officers assist in facilitating the false registration of stolen vehicles.

**EXTORTION RACKETS**

A number of police officers have been involved in running extortion rackets. In some cases they extort money from criminals in return for not arresting them. Prostitutes and illegal immigrants are common targets, but organised groups may also be targeted.

In some cases corruption involves individual police officers but in others it involves groups. This helps organised groups to penetrate whole police units or significant portions of a unit. In September 1998, for example, more than half of the twenty-four member National Aliens Investigation Unit were suspended on charges of corruption.

Police figures for 1996 indicate that there were 2,834 police officers under investigation for criminal offences. However, it should be pointed out that this

is not an accurate picture of the extent of corruption within the SAPS because investigation of police officers is extremely difficult and evidence even more difficult to obtain. Most police personnel are reluctant to give evidence against fellow officers.

Corruption within the SAPS is so pervasive that officers involved in crucial investigations may refuse to share information with other officers because they are not sure whom to trust. Given that information is a crucial component of any investigation this plays into the hands of organised crime groups.

*The case of Piet Meyer*

One of the most prominent cases regarding alleged police involvement in crime is that of the Senior Superintendent investigating organised crime in KwaZulu-Natal, Piet Meyer, who was appointed to this position in 1996 after heading the South African Narcotics Bureau in Durban.

The investigation into Meyer apparently started after the killing of a nightclub bouncer in February 1997. Statements taken from two men led police to a drug syndicate allegedly headed by a former policeman; they also cited major police corruption and named Meyer as one of the officers involved.<sup>93</sup>

Less than two months later, the Asset Forfeiture Unit, led by Willie Hofmeyr, arrived at Meyer's house to attach assets that he had allegedly obtained through illegal activities.

In court it was alleged that Meyer was regularly given large sums of money to protect illegal casino operators and prevent them being raided and that he had ordered the release of a cocaine dealer, a man charged with being in possession of an Uzi firearm, and a lawyer who had been found in possession of about R200,000-worth of fake R50 bank notes. Meyer was also accused of stealing confiscated pool tables, and stealing R10,000 in cash from the safe of the Commanding Officer of Sanab. In addition, Meyer was accused of corruption in arranging for a R10,000 donation to be made to the Police Officer's Club from the Gambling Association of South Africa in return for an affidavit supporting the continued operation of the then-illegal casino industry.

The court papers also described Meyer's relationship with deceased drug lord and notorious gangster, Sharif Khan, who died in 1995. Meyer allegedly arrested Khan in 1986 but was subsequently involved in Khan's irregular early release.

Meyer was suspended from the police service on full pay. He appeared in the Durban Regional Court in the same month on 16 criminal charges, including fraud, theft and defeating the ends of justice. He paid R10,000 bail and agreed to stiff bail conditions which included not interfering with the 39 witnesses listed on the charge sheet.<sup>94</sup>

At the end of July 1999, the same month Meyer's assets were seized, they were returned to him unconditionally. Meyer viewed this as vindication; however, the reasons for the return of his assets were based on a ruling that the provisions of the Act could not be applied retrospectively in regard to the seizure of assets.<sup>95</sup>

In September 1999, an additional charge of defeating the ends of justice was laid against Meyer, increasing the number of charges against him to 17. All 17 charges were dropped in March 2000 after the murder of the prosecution's star witness, Eric Tussie, a policeman. Tussie was shot five times in the back when trying to break up a fight outside a nightclub in Durban.<sup>96</sup>

By August 1999, 13 members of Durban's Organised Crime Unit had resigned, been suspended, transferred to other units or booked off on 'stress leave'. A number of Meyer's colleagues were subsequently charged with fraud and theft.

In June 2000, Meyer was arrested for a second time, together with Sarel Geldenhuys and David McBrier, on corruption charges involving R2.4 million. The three are alleged to have taken money from owners of illegal casinos in return for protection from closure and prosecution. The money was received between January 1992 and February 2000.<sup>97</sup>

At an appearance in the Durban Magistrates Court on 30 July 2000, Meyer was warned not to contact witnesses or to visit the offices of the Organised Crime Unit. A Senior Public Prosecutor said it appeared that Meyer had attempted to intimidate key witness in the former case against him. The Prosecutor alleged Meyer had also been to the Organised Crime Unit offices and used the Unit's computer to obtain

confidential information on Andrew 'Spuiker' Ludick, former Durban Commander of the Unit.

A member of the Unit said in an interview:

I don't know how many of our guys had good relations with the big drug guys and with guys owning the prostitutes in Durban, but I can say that some were definitely taking money. How do you control that when the Unit is not answerable to anyone except its own Head and there are stories everywhere about him—it's all in court now for the whole world to see.<sup>98</sup>

Speaking about the effect this situation had on the Unit, another member said:

What this has caused is a very real problem related to morale for those members of the unit who are not facing charges. Other police have the attitude that the Organised Crime Unit is organising crime rather than dealing with syndicates. This hurts the guys who are really straight. At the same time we know there are crooked guys among us and it is difficult to defend what they are doing.<sup>99</sup>

#### *The South African Revenue Service*

Many organised crime networks are involved in smuggling activities, running these operations through import/export companies. They rely heavily on corrupt customs officials to allow them to either mis-declare cargo or to under-value it. Many networks have customs contacts who work closely with them. During 2000 SARS lost over R450 million, R160 million of which was as a result of customs duty evasion (the balance of R300 million was taken out of the country illegally).<sup>100</sup> Most of this corruption is facilitated through clearing and forwarding agents who handle the clearing of goods through customs.

As with Home Affairs, criminals often entrap customs officials. In this case, they take incorrect documents with them when they go to collect a shipment. If the customs officials query the documents, a veiled bribe is offered. If the bribe is refused, the correct documents are supplied. If the bribe is accepted, the customs official is hooked.

Money often does not change hands physically but is transferred electronically into the customs official's account or that of a family member. Similarly, 'payment' may take the form of goods or property transferred into the customs official's name or that of a family member.

In February 2000 the Scorpions launched a joint operation in conjunction with members of SARS, raiding the offices and homes of 25 SARS members. One person was arrested and 129 SARS members were suspended as a result of this operation. The operation was linked to an investigation launched in 1999 into the electronics industry, which revealed links between groups involved in illicit activities and customs officials. The investigation also revealed that customs officials had received hi-fis, rifles and even baby clothing in exchange for the return of confiscated goods. One had allegedly received R30,000, a digital camera, an air conditioner and a plane ticket as a bribe from groups involved in the illegal importation of electronic goods.

During the raids by the Scorpions and SARS the home of a senior officer of KPMG was also searched. Subsequent investigations revealed that a bag of cash was delivered to the home of a KPMG employee and that a senior customs staff member had received a R2.5 million bribe.

The home of a senior member of the SARS Anti-Corruption Unit was among those raided. She had accepted loans from corrupt importers and, in exchange, recommended that penalties against them should be dropped. She allegedly received loans of between R2,000 and R4,000 whenever needed and bought a vehicle for which the importers provided the deposit.

The crackdown on SARS officials also revealed that goods worth R300,000 that were stolen from SARS warehouses had found their way onto the open market.

Speaking during the investigation, SARS head Pravin Gordon told the press that a similar investigation would soon be launched into the clothing and textile industry.<sup>101</sup>

### *The transport industry*

The transport industry plays an important role in the operations of organised crime groups, particularly transnational groups involved in smuggling operations—specifically, the trucking sector that carries large consignments of goods.

It appears that there are two types of corruption in the industry:

- corrupt companies that are involved criminal activities as an integral part of their operations; and
- legitimate companies that have staff members and drivers who are involved in corruption.

Many of the companies involved in unlawful practices run legitimate operations alongside their illegal operations, using their legitimate customers as a front for the illegal operations.

According to a manager of a large container trucking operation, there are approximately 3,600 registered trucking companies in South Africa. It is estimated that about 20% of these operate illegal businesses. This manager regarded the trucking industry as "one of the biggest mafia industries in the country. It is worse than the taxi industry. They have even been known to shoot each other".<sup>102</sup>

Many companies involved in smuggling are known in the industry as 'B route' companies. The name is used because when they haul illegal goods, they avoid main roads and routes and take alternate, or 'B' routes.

In some cases when illegal operators have attracted police attention, they have bought into legal companies and continued to run their illegal operations through them. Often the owners or board of the company being bought are not aware that they are being used as a front for smuggling operations. Another way of dealing with the attention of the police is to close down the company under investigation and establish a new one.

According to people in the trucking industry it is often easy to identify the illegal operators because they are able to charge 50% less than most legal operators. The reason is that the real money is made from the illegal goods they haul, and the legal operations are merely a necessary front.

Some companies haul illegal loads for anyone if the price is right, while others operate with particular crime networks. Some are even owned by the networks.

There is currently no law stating that trucks must show the name and address of the owner. When drivers are questioned by police on the road, they say



they don't know who the owner is. Often drivers do not know what they are carrying but they are the ones who are jailed.

Although it is illegal, some trucking companies don't use local authorities' vehicle testing stations but set up their own testing stations. One reason is that it enables them to use boxes under trucks, normally used to store tools, to smuggle goods. These boxes may have false compartments that an official vehicle testing station would discover.

According to people in the industry<sup>103</sup> Durban is one of the worst areas for corrupt operators. One reason is that Durban harbour is the first port of call for many ships bringing cargo to South Africa. From there goods can be transported to other countries in the region.

Many trucking companies, both legitimate and corrupt, are forced to pay bribes when taking loads across the borders and regard the bribes they have to pay as part of their operating costs. At the border posts the drivers do not hand over money to the customs officials directly. Instead, envelopes containing the bribes are attached to trucks' spare wheels. Standard procedures have even evolved: two envelopes are used, a brown one for the South Africa customs officials and a white one for the customs officials on the other side of the border.

Even if the load is legitimate, the bribe is normally paid to avoid having the truck delayed by customs officials. However, the size of the bribe varies depending on whether or not the load is legal. A legal load will cost R50–R100 in bribes, while an illegal load can cost as much as R20,000 depending on the nature of the load.

In some cases the drivers of legitimate companies agree to carry illegal goods without their employers' knowledge. This is particularly the case in the container trucking sector, as opposed to bulk trucking, because bulk truckers haul loads both to and from their destinations while container trucks often return from their destinations empty. Truck drivers are then bribed to take illegal goods on the return trip.

There are even cases where the drivers have run the trucks as taxis on their return trip, transporting illegal immigrants. They generally transport people in the second compartment of the container because when border officials open containers they generally only look in the first compartment, which they find empty.

Generally, though, these drivers are involved in small-scale smuggling and the real problem lies with companies whose whole operation centres on smuggling.

### *Other business and professionals involved in corruption*

The trucking industry is not the only sector that is involved in corruption: this report has already made mention of the role of forwarding and clearing agencies in corruption. As with the trucking sector, some corrupt agencies offer their services to any criminal elements while others are linked to, or run by, the organised crime groups themselves. A police officer interviewed estimated that about 45% of forwarding and clearing agents were involved in some form of corruption, although he also pointed out that many agents working for legitimate companies will not involve themselves in corruption.<sup>104</sup>

Another sector that contributes to the success of organised crime is the banking sector and this chapter has referred to the involvement of bank employees in fraud operations.

Certain members of the legal fraternity also play a crucial role but they are difficult, if not impossible, to investigate as their activities are protected by client/attorney privilege.

This chapter has also referred to the involvement of certain car distributors, panel beaters and scrap yards in the distribution of stolen goods.

There are also a number of wholesalers who buy stolen goods and then place them on their shelves mixed with legally purchased goods, making the stolen goods almost impossible to trace. The wholesalers offer an important market to organised crime groups wishing to distribute stolen goods on the local market.

## **Conclusion**

While the growth in organised crime is an international phenomenon, its rapid growth in South Africa post-1990 is a matter of serious concern. At a security level the government has taken a number of positive initiatives to deal with the problem. The establishment of the Scorpions, as well as the introduction of legislation allowing for the assets of people involved in organised crime to be seized by the state, are two such initiatives. However, the factors contributing

to organised crime as well as the expansion of the operations and activities of organised crime groups clearly point to the need for this problem to be addressed at all levels of government. The initiative by the Ministry of Safety and Security to promote inter-departmental cooperation is an important one, but it can only succeed if different departments begin to see their involvement in dealing with this problem as integral to their own programmes. In this regard coordination of information and the ability to include issues arising from this information into the planning of different departments are essential. Mistrust and jealousies, not only between different departments but also within departments, often make this task all the more difficult, as does the view of many elements of civil society that crime is the sole responsibility of government.

The market for the products of crime and the available pool of foot soldiers prepared to involve themselves in criminal activities have been crucial to the growth of organised crime and require serious attention. A serious look at the social economy of crime is needed in order for us to be in a position to effectively address both.

The extent to which the general public in South Africa participate in the economy of crime and thereby assist in its continued growth should not be underestimated. Participation can take many forms, including corruption within business, the purchase of illicit goods and the consumption of drugs. Media campaigns have focused on discouraging the public from buying stolen goods but the real impact of these campaigns has not been measured. What maybe required is an in-depth look at how South Africa, which has experienced a period of transition, can begin to address this problem and develop social programme and measures to deal with it.

Corruption within both government departments and business also needs to be looked at more closely. A number of different units and initiatives have been established in an attempt to deal with this corruption. One of the problems with many of them is that the focus has been on corrupt officials rather than on the people by whom they are corrupted. The involvement of business in corruption and its role in the chain of corruption needs to be looked at more closely.

The expansion of transnational organised crime groups operating in South Africa and the prominence of cross border crime suggests that South Africa cannot address organised crime in isolation from its neighbours. The establishment of the Southern African Regional Police Chiefs' Organisation, (SARPCO, a regional forum of police heads within the SADC region), and the increasing

number of joint anti-crime operations involving different countries indicate that most countries in the region have already acknowledged this. However, corruption and the uneven level of resources in the region have made the task of regional cooperation in addressing organised crime a difficult one. Nevertheless, if transnational organised crime groups are going to be dealt with effectively, regional cooperation and the pooling of information will be essential.

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- 59 Interview with a SAPS border police member, Johannesburg, August 2001.
- 60 Interview with a director of a large trucking company, Johannesburg 2001.
- 61 Interview with a Durban businessman, Durban, March 2001.
- 62 Affidavit submitted to the High Court (Witwatersrand Local Division) by Business Against Crime Projects Manager, Lorinda Nel, in Case No 21921/00.
- 63 There are a variety of reasons why the fraudulent element of some hijackings goes undetected. Police failings in this regard include poor recording of information when the hijacking is first reported, a lack of effective investigation

into reported cases of hijackings and a lack of coordination among police units. Further, people reporting hijackings are treated like victims and are seldom cross-examined: being hijacked is a traumatic and life threatening experience and victims require sensitive handling by police officers immediately after the experience.

Unfortunately, this also allows for people who report fraudulent hijackings to receive empathetic treatment. In addition, there is a growing sophistication of those involved in fraudulent hijacking, making investigation more difficult. Insurance companies' failure to screen and investigate hijacking cases rigorously contributes to the problem. Companies which are victims of fraudulent hijackings further compound it: many fail to report the crime or to lay criminal charges against any of their employees involved in the fraud because it carries negative implications for their insurance.

- 64 Interview with a journalist from the KwaZulu-Natal *Saturday Independent*, Durban, August 2001.
- 65 Ibid.
- 66 Ibid.
- 67 Ibid.
- 68 Interview with a KwaZulu-Natal SAPS member, Durban, July 2001.
- 69 Interview with a former prisoner, Soweto, July 2001.
- 70 Ibid.
- 71 Ibid
- 72 Interview with a prisoner, Westville, August 2001.
- 73 Interview with a former prisoner, Soweto, July 2001.
- 74 In May 2001, two Durban police officers were arrested and charged for their involvement in a cash-in-transit heist. They were linked to a group of 16 people who were all found guilty of involvement in the heist. One of the police officers was a member of the unit responsible for investigating cash-in-transit thefts.
- 75 Interview with a Durban journalist, Durban, July 2001.
- 76 Interview with a Durban police officer, Durban, August 2001. A detective from Ulundi who made arrests after the assassination of a local taxi operator in mid-1999 found that the people arrested were members of the SAPS from Gauteng. During subsequent investigations he was approached and offered R25,000 to 'lose the docket'. When he refused to do so he and his family were threatened.

In December 1999 he survived an attack on his home. The suspects in this case secured bail but never returned to court.

77 The South African Corruption Act 56 of 1992.

78 Minaar, op cit.

79 Ibid.

80 Ibid.

82 Interview with a member of the Human Rights Committee, Johannesburg, September 2001.

83 Ibid.

84 Ibid.

85 Ibid.

86 Ibid.

87 Ibid.

88 Ibid, September 2001.

89 Ibid.

90 Interview with a journalist from the *Independent on Saturday*, Durban, September 2001.

91 Interview with a Westville prison warden, Westville Prison, Durban, September 2001.

92 *Beeld*, 8 June 2001.

93 *Sunday Tribune*, 4 July 1999.

94 *The Mercury*, 30 July 1999.

95 *The Mercury*, 16 September 1999.

96 *Mail and Guardian*, 17–23 March 2001.

97 *The Mercury* 23 June 2000.

98 Interview with a member of Durban's Organised Crime Unit, Durban, August 2000.

99 Ibid, September 2001.

100 SARS raid 'touched the tip of the iceberg', *Business Day*, 2 February 2001.

101 Ibid.

102 Interview with a manager of a transport company, Durban, September 2001.

103 Interview with a border police official, Johannesburg International Airport, Johannesburg, October 2001.

104 Ibid.