

Paper presented by the
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Topic:

Organised Crime – Southern Africa Regional Perspective

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Addresses:

I feel greatly honoured not only by the invitation for this occasion but also by the honour of being associated with the noble idea of fighting organised crime at both regional and international level. The meeting is important and critical for a number of reasons, two of these will suffice to illustrate the point. Firstly, that this meeting is being hosted at international level is a clear manifestation that we are indeed all concerned about the effects of organised crime, and secondly the subject is an issue which the African and third world governments are currently grappling with, albeit with some limited success. Admittedly some developed countries are also grappling with the same problem from a slightly different perspective. To the extent that this kind of criminality has become the normative or accepted way of life in many countries the situation must be considered serious and discouraging.

Whereas it may be possible to sufficiently identify what Organised Crime is in a given country, it is not quite so in the case of the whole African Region, with its diverse Legal systems and generally different political ideologies and economic policies. However in view of the common approach being increasingly taken by African states through regional and international fora, I may venture to put out categories of offences which I believe would qualify as organised crimes throughout the region. Classical examples of organised crime would include vehicle theft, money laundering, fraud, embezzlement, smuggling, drug trafficking, robbery, murder, cattle rustling (stock theft) forgery, contravention of the exchange control laws, corruption etc. It is trite to mention that it would be difficult to dwell on organised crime without reference to corruption as it is central to it. For organised crime to succeed there must be corruption. The enormity of the problem and its dire consequences for the survival of our countries as viable economic, political, social and moral entities call for a critical examination and assessment of existing measures and mechanisms for controlling organised crime as well as a deliberation of probable and possible "antidotes". For example why has the problem proved recalcitrant in the face of both conventional

measures and mechanisms and in the face of target directed effort and hundreds of commissions of inquiry.

Before we look at the, nature, patterns and consequences of Organised Crime, I will try to define it. Of course, Ladies and Gentlemen, it is not that this situation was unheard of in our traditional Africa. There is abundant ethnographic evidence that in most of our precolonial societies, the traditional rulers, chiefs and their emissaries were and still are, perpetrators of certain forms of institutionalised organised crime and corruption with regard to disputes over land and women -- the major types of property at the time.

By the late forties and early fifties, the practice of demanding and sometimes in an organised manner was authoritatively stated to be found in hospitals, police motor traffic units, pay offices etc. and thereafter there have been so many revelations of this kind of criminality and corrupt practice through commissions of inquiry and or newspapers expose.

Organised crime shares important common characteristics with economic crime and corruption especially the aspect of profit motivation. It is in essence a social framework for the perpetration of criminal acts rather than specific types of offences. It shares the hierarchical managerial structures of legitimate business with the gains from its illegitimate activities. A crucial feature of organised crime is the cultivation of political and social influence (as necessary safeguards for the sustenance of economic power). The process of attainment of political and social influences usually involves large-scale corruption of public officers at relevant tiers and levels of government or the use of violence or other forms of intimidation. The fore-going definition, Ladies and Gentlemen clearly indicates that organised crime goes beyond mere criminal conspiracies, syndicates or gang crime. It is a self sustaining and properly structured framework in the mould of any well organised legitimate enterprise.

The nature, seriousness and type of organised crime has become great cause for concern in our region and I believe it is the same internationally. Organised crime has become a threat to national economics, democratic institutions and the due process of law. Considering the multitude of avenues, opportunities and pressures for organised crime and corruption, the collaboration of the victim whether individual or corporate, the diffused or remote nature of victimization particularly in their large scale dimensions, the routine participation of the personnel of the agencies of control and the synonymy of perpetrators with the powerful socio-economic political and bureaucratic elite it is Virtually impossible or rather difficult to determine With any appreciable degree of accuracy the cost of this kind of criminality to our region and the international world even in simple monetary terms. Yet, it is important to know the consequences, people's desires, aspirations and the adverse effects it has on our economies, development plans and plan implementation and on our people's attitude to work, the effects on political legitimacy, overall stability and social and political culture of our people.

The majority of the perpetrators are business class in collusion with the political and public service elite who abuse their official positions. It is important to note however, that some crimes vary with countries and regions. Crimes like embezzlement, stock theft, corruption and bribery may be prevalent in developing countries and may not be prevalent in the developed countries.

In my discussion of organised crime it would be doing injustice to the subject if I only considered the type of crimes and the legal framework within which such issues can be handled without touching upon the causes of these crimes and apparent concentration of certain types of crimes, in a given environment. These aspects form a well-knit socio-economic fabric of the world of organised crime which all of us here must understand in order to fight it. When looking at the African Region which is favoured by more reference from me as my region of origin and indeed the third world, and their relationship to the organised crime one is forced to pose certain questions as to the causes. Is it economic

underdevelopment, flagrant abuse of human rights, defranchisement and resultant alienation of certain sections of society? Is it the emergency and continued existence of unconstitutional governments, or is it poor and inadequate remuneration of civil servants and other public employees or is it greed. The easiest and most obvious answer is that it is a combination of all that has been said.

For purposes of provoking serious thought on the subject of organised crime I want to go a step further and make a few submissions which I also feel give rise to this type of criminality.

Firstly I submit that the high incidence of organised crime in our region and perhaps the developing world is a reflection of the deficiencies in a number of our institutions notably in fields of education, law enforcement sectors and as well as in the administration of justice. These deficiencies are in turn related to poverty and a reflection of different countries' priorities in resource allocation.

Secondly, the high incidence of organised crime may be explained by the quality of our entrepreneurs both locally as well as foreign who are usually favoured by circumstances to engage in trade and industry.

Thirdly, lack of political will in pursuing the concept of international law enforcement by fighting transnational crime.

Fourthly, failure to comprehend the true scope and nature of organised crime by our criminal justice systems. This has prevented the formulation of a coherent policy which would influence judicial and quasi-judicial activity.

Fifthly, the absence of free civic government and civic societies in African political life has led to a feeling of alienation amongst the grassroots. People develop a feeling that government does not belong to them so there is no need to get involved.

Sixthly, our region has acquired a reputation for political instability with revolving door governments. This instability has reflected itself in the rise of crimes like bribery and corruption where those in political life try to "put away an egg-nest somewhere" before they are removed from power.

Effective disposition of offences under the umbrella organised crime therefore involve an approach that recognises the special feature of these categories of crime. For example several parties, possibly outside the traditionally recognised "parties to offences" (*participes criminis*) may be involved in the perpetration of the offences.

In the African Region and third world countries official attention to organised crime has been rather slow in coming. There has been a considerable boom in economic activities with the standard of living rising sharply (somewhat artificially) especially in urban areas at the expense of organised crime. The amazing success of government contractors led to a rush for government contracts of all types and the government functionaries in position to grant patronage have become targets for bribery. Respect for hard working honest salary earner disappeared and money became the determinant of respectability in society. Most government institutions have become in themselves the fortresses of corruption hence the difficulty in checking out organised crime.

Considering the plethora of organised crime syndicates and the steady proliferation thereof one may safely assume that billions of dollars are generated through illicit criminal activity. Some people have remarked that organised crime constitutes parallel economics. Some African states have become convenient and profitable havens of organised crime syndicates due to ineffective Legislation and measures to detect and to prevent it.

The increasing complexity and sophistication of crime as well as the multiplicity and diversity of the problems it creates at national and international level calls for concerted action and common approach to solutions.

After having discussed possible causes, Ladies and Gentlemen the question that comes into play is, how should governments respond to this problem. What penal correctional and rehabilitative measures are appropriate for persons convicted of each of the organised crimes?

The pursuit for a more politically democratic, economically secure and socially just society should be considered a pre-requisite to any serious effort to stem the tide of the problem of organised crime and corruption. On the basis of the foregoing I recommend the following in combating the problem.

Research

In combating organised crime it is important for governments to have adequate information on the problem. Governments can only do meaningful combating work if they know the extent of what they are fighting. Research into the structure of organised crime and the evaluation of the effectiveness of existing counter measures should be encouraged leading to a more informed basis for prevention.

Training

It has been noted that those committing organised crime are experts in this area. Crimes such as money laundering tax evasion smuggling computer fraud etc. are extremely technical and sometimes involve the use of latest technology. It is obvious that an under trained law enforcement officer will not be able to achieve anything. Basic training should be regularly updated through refresher courses seminars and workshops.

Raising Public Awareness

A number of organised crimes go unnoticed or unreported because people cannot distinguish between legitimate and illegitimate conduct. Governments should mobilize support in order to change community attitude and enlist public support. One common and cheap method is through the media, churches and other institutions of social control.

Fraud Control Programmes

Laxity in operations is sometimes a big contributor to the problem of economic and organised crime. Provision of strict financial control, regular checks and being on the look out for unexplained huge deposits or transfers is necessary whilst maintaining or protecting customers' secrets and exposing criminal transactions.

Legislation

Legislation should catch up with new forms of crime. This links with research. A potential threat of prosecuting someone is sometimes a deterrent to some potential criminals. It must be law that does not discourage international law enforcement.

Forfeiture of Proceeds of Crime

To discourage criminal activity there must be forfeiture of proceeds of crime. This provision is very important as it goes to enhance the adage "Crime does not pay". The criminals should not benefit.

Counter intelligence

Because of the complexity or involvement of public officials in the network of economic and organised crime it is desirable to establish specialised agencies which can gather information on their activities. In short the development of systems to watch the watchmen to control the controllers is essential.

Rewards

One way of soliciting information of economic and organised crime is to reward people offering it, and where witnesses prefer anonymity, their wishes should be respected. Even policeman may be rewarded where they show exemplary performance of duty in fighting crime.

International Measures

Since there is a lot of transnational economic and organised crime it is important that there should be international co-operation in fighting this problem. Drug trafficking, smuggling and money laundering are a few examples which by their very nature a single transaction may involve several countries. Co-operation can therefore be exercised in following areas:

- Extradition:- surrendering of suspects for trial.
- Securing of evidence:- mutual assistance in securing of evidence.
- Foreign judgments:- provision in their laws that recognise foreign judgements.
- Transfer of Cases

It should be possible in appropriate cases for proceedings and suspected offender to be transferred from one country to another freely.

Model Codes

States should strive to develop comprehensive model codes especially at regional or sub-regional levels to combat crimes of national and international dimension.

Ladies and gentlemen, it may be fitting to conclude my paper by stating that we from Southern African regional have realised the futility of pursuing isolationist and partisan strategies in the fight against organised crime.

Police chiefs under the aegis of the SARPCCO have been actively working at chipping away legal and administrative impediments that stand in the way of collective efforts at fighting this scourge. I am happy to say that we have been able to work closely and openly in the formulation, implementation and evaluation of strategies and initiatives for fighting cross

border crime. It is probably not an exaggeration to say that Southern Africa Region, at present is not the best place to engage in a cross border crime, there is nowhere to hide and we intend to keep it that way.

Our Police Chiefs have also sought to strengthen the capacity of our local Interpol Subregional Bureau through active information exchanges and by integrating its objectives with those of SARPCCO.

It would be remiss on my part if I did not pay tribute to international donors and other Police Organisations that have assisted the Region in hosting crime-fighting seminars. The benevolence and goodwill of these organisations and services is still needed. Fighting organised crime is resource intensive and the region can always benefit from knowledge and expertise obtaining elsewhere.

I thank you.