

Thematic session: Economic crime

Title of the statement: Transnational governance networks against grand corruption: Learning from research on informal cooperation among law enforcement and investigative journalists

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Grand corruption and kleptocracy are transnational problems, and are often linked to organised crime.

Although the corruption typically involves politicians and government officials in one country abusing their office for private gain, their actions may be transnational in three main ways:

- They may be incentivised by bribes paid by a company from another country;
- They may be facilitated by an intermediary from another country; or
- A company in another country may help them conceal or launder the proceeds of their corruption, eg through provision of financial or legal services.

Transnational cooperation among law enforcement agencies is therefore critical to tackling grand corruption and is included in the United Nations Convention Against Corruption (UNCAC), Article 48 as well as being an objective in line with Articles 61-68 of the Kyoto Declaration.

Yet such transnational cooperation is currently weak. Cooperation is seen to be difficult to achieve, because of the political sensitivity of investigations, lack of trust among agencies, difficulties in sharing intelligence securely, weaknesses and discrepancies in capacity, and organisational incentive structures that favour quick and easy cases.

However, investigative journalists ostensibly face similar challenges and yet they increasingly cooperate across borders to investigate and expose corruption with great success. Just look at the Panama Papers, Paradise Papers and Pandora Papers. But also numerous other transnational investigations that have exposed grand corruption.

Our research, funded by the UK Foreign Commonwealth and Development Office through the Serious Organised Crime-Anti-Corruption Evidence programme, seeks to compare transnational cooperation across these two groups – to ask whether they can learn from one another, or even cooperate more across the two professions.

We are at the early stages of research, but our top three findings on law enforcement cooperation thus far are as follows:

First, there are often organisational disincentives to cooperate. Prosecutors and magistrates often fail to follow leads to other jurisdictions for fear of delays which might jeopardize short-term success at the national level. Both across and within jurisdictions, agencies compete rather than cooperate, creating inefficiencies and providing scope for criminals to use their knowledge to circumvent the system. And national authorities are often not rewarded for cooperation across borders.

Second, formal mechanisms such as Mutual Legal Assistance are beset by delays and failure to meet technical requirements. And such delays can be extremely damaging to investigations, since witnesses lose confidence and withdraw cooperation, may succumb to pressure, or become unavailable for other reasons. But this can be solved by investing in capacity-building in this area, targeted at building relationships, teaching about how the system works, and providing assistance to shepherd requests through the system rather than allow them to be too easily rejected on procedural grounds.

Third, when they do try to cooperate across borders, agencies often focus on building technical systems to facilitate information sharing but pay little attention to softer cultural issues such as lack of trust between agencies in different jurisdictions, which impedes cooperation and frustrates the ability to pursue cases, particularly for smaller agencies. Investing in mentoring therefore makes sense. And simple things like not using one's rank in communication with peers in other countries can help to break down barriers. Moreover, in building informal relationships, the aim needs to be to build partnerships where both sides need each other, avoiding asymmetric relationships, that often trigger colonial-era mistrust. Finally success breeds success. Once cooperation has yielded results once, the glow of success means that those involved are motivated to try again and also spread the knowledge to their peers.

We are at an early phase of our research, but we think it has the potential to highlight small weaknesses in our current systems, so as to build an evidence base for plugging the gaps.

Live statement preferred, but also happy to provide video if that suits better