CIVIL SOCIETY CONTRIBUTIONS AND LINKAGES BETWEEN CORRUPTION AND TRANSNATIONAL ORGANIZED CRIME IN SOUTHERN AFRICA

BRIEFING PAPER

FEBRUARY 2022
The analysis and views presented in this briefing paper are the authors and do not necessarily reflect those of the United Nations office on Drugs and Crime (UNODC).
The United Nations Convention against Transnational Organized Crime (UNTOC) and its protocols on human trafficking, migrant smuggling and trafficking of firearms, constitute the key framework for a strategic global response against transnational organized crime (TOC). The UNTOC as the name implies, is an effort to fight organized crime, which is transnational in nature.

The implementation of the UNTOC is not the sole preserve of the governments but Civil society organizations (CSOs) play a pivotal role in supporting its implementation through fighting transnational organized crime in many and varied forms, that ranges from providing expertise to governments, conducting research, monitoring and reporting on the status of implementation of UNTOC commitments, denouncing all forms of organized crime, advocacy activities and as well as raising awareness on what TOC is and its deleterious effects.

To this end, this assessment sought to gather information on what is known about the UNTOC, related courses of action organizations have undertaken, and pinpointing entry points in fighting corruption to tackle organized crime. The findings were meant to be analysed to inform future projects, potentially trainings, which UNODC would hope to invite CSOs to attend. The outreach was conducted with mainly anti-corruption focused NGOs in Southern Africa (full list in Annex) during July and August 2021. The research and authorship of the briefing paper was conducted by the Chairperson of Anti-Corruption Trust of Southern Africa, Obert Chinhamo, on behalf of the UNODC Civil Society Unit. The views and opinions expressed in the paper are those of the author and do not necessarily reflect those of UNODC.
The assessment made the following key findings:

a) Seventy nine percent (79%) of the consulted CSOs expressed knowledge of the UNTOC and its supplementing protocols, whilst 21% did not know about it. The implication is that efforts should be made to popularize the UNTOC and its protocols to ensure that all CSOs gain adequate knowledge that enables them to support its implementation.

b) Eight percent (80%) of the CSOs consulted confirmed that they knew the linkages between organized crime and corruption whilst 20% did not know. Corruption has largely been viewed as a facilitator or modus operandi of organized crime. There was consensus that organized crime thrives through corruption.

c) On the list of TOC, trafficking in persons (27%) was the most prevalent followed by environmental crimes such as wildlife and timber trafficking as well as peddling in drugs (14%) and dealing in counterfeit products (14%). However, some of the organized crimes are not transnational in nature but take place within the same country.

d) The sectors/industries more prone to TOC included entertainment and the sex industry (14%), mining (12%), health (11%), agriculture (10%) and security (10%). This is followed by domestic work (8%) and justice delivery (9%).

e) Whilst CSOs make distinctive contributions to the implementation of the UNTOC, they also face a plethora of challenges that undermine their effectiveness. On the list of these challenges include, mistrust between CSOs and government counterparts, competition for scarce resources, lack of expertise, lack of public knowledge and interest in the UNTOC, security threats, and partly due to some UNTOC State Parties that have hindered the involvement of civil society in the implementation of the UNTOC.

f) Development partners such as UNODC and others were requested to support CSOs in areas that include capacity development and/or enhancement, facilitation of information exchange (especially best practices), human and financial resource mobilization, development of advocacy materials, including Tool kits and support to deal with increasing security threats from organized criminal groups and some governmental counterparts.

g) In pursuit of the implementation of the UNTOC, CSOs offered the following interventions:
   - Community conscientisation against TOC.
   - Engaging governments to enforce extant laws.
   - Capacity building and/or development.
   - Public Interest litigation on behalf of victims of TOC.
   - Research and Advocacy for Policy and Law Reform.
   - Monitoring and reporting on UNTOC State Parties progress vis-à-vis the implementation of the UNTOC and Collaboration and Information exchange.
h) Knowledge gaps existed among CSOs that undermine their contributions to the implementation of the UNTOC. This is supported by Figure 2 showing that 79% expressed knowledge of the UNTOC, and its supplementing protocols, whilst about 21% did not know about it. Tailor made training was requested in the following areas:

- Training on the entire TOC and its supplementing Protocols.
- Training on detection and reporting of TOC.
- Training on new concepts related to the UNTOC and its Protocols.
- Training on linkages between organized crime and peace/security.
- Training on the use advocacy tools for use by CSOs.
- Training on UNTOC Implementation and Domestication.
- Training on the UNTOC Implementation Review Mechanism (IRM).
- Training on Research, Documentation of TOC, CSOs Contributions and Best Practices.

In view of the above findings, the following recommendations are made:

a) Considering the linkages between corruption and TOC, there is need to mainstream anti-corruption in all TOC related programmes and projects.

b) CSOs should be adequately resourced to be able to contribute effectively to the implementation of the UNTOC.

c) Development partners such as UNODC and others should consider supporting CSOs in the following areas:
   - Capacity development and/or enhancement.
   - Facilitating information exchange, especially best practices on fighting TOC.
   - Human and financial resources, and
   - Development of advocacy materials, including Tool kits.

d) CSOs capacity development/building programmes should target the following areas:
   - Training on detection and reporting of TOC.
   - Training on new concepts related to the UNTOC and its Protocols.
   - Training on the Linkages between organized crime and peace/security.
   - Training on using Tools for advocacy and engagement.
   - Training on UNTOC Implementation and domestication.
   - Training on how CSOs participate in the UNTOC Implementation Review Mechanism (IRM).
   - Training on Research, documentation of TOC, CSOs Contributions and Best Practices.
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1. INTRODUCTION AND BACKGROUND INFORMATION

The United Nations Convention against Transnational Organized Crime (UNTOC) and its protocols on human trafficking, migrant smuggling and trafficking of firearms, constitute the key framework for a strategic global response against transnational organized crime (TOC). The UNTOC as the name implies, is an effort to fight organized crime, which is transnational in nature. Article 3 (2) of the UNTOC clarifies the characteristics of a transnational crime as a crime that is:

(a) committed in more than one State;
(b) committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;
(c) committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or
(d) committed in one State but has substantial effects in another State.[1]

The UNTOC further illuminates the fact that transnational organized crimes are committed by transnational organized groups. A transnational group is defined under Article 2 (a) as “..a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit”[2]

The United Nations office on Drugs and Crime (UNODC) in its capacity as the guardian of the UNTOC, plays a very important role in assisting State parties in translating their commitments into actions.[3] The UNODC Civil Society Unit promotes strong partnerships between civil society organizations (CSOs) and governments for effective civil society engagement in dealing with the complex issues of drug abuse and crime which undermine development. CSOs are helping UNODC to carry out its global mandates, and without doing so, UNODC cannot do so otherwise effectively.[4]

In the context of the UNTOC, CSOs in their various forms carry out different activities in support of the implementation of this Convention. In keeping thereof, this assessment was carried out seeking CSOs contributions to establish linkages between fighting corruption and tackling transnational organized crime TOC). In addition, the assessment sought to gather information on what is known about the UNTOC, related courses of action organizations have undertaken, and pinpointing entry points in fighting corruption to tackle organized crime. The findings were meant to be analysed to inform future projects, potentially trainings, which UNODC would hope to invite CSOs to attend.

The assessment reached out to CSOs. A significant majority of these CSOs were already carrying out activities linked to the protocol to prevent, suppress and punish trafficking in persons, especially women and children (20%), smuggling of drugs (12%), smuggling of minerals (11%), smuggling of migrants (10%). Refer to Figure 1 below for more information.

*Figure 1: CSOs Areas of Specification*
2. KNOWLEDGE OF THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME (UNTOC) AND THE THREE SUPPLEMENTING PROTOCOLS

Figure 2 below shows that the UNTOC, and its supplementing protocols, was known by about 79% of the consulted CSOs, whilst 21% did not know about it. To this end, it is recommended that the UNTOC and its protocols be popularised to ensure that all CSOs gain adequate knowledge that enables them to support its implementation.

Figure 2: Knowledge of the UNTOC among CSOs in Southern Africa

Do you know what the United Nations Convention against Transnational Organized Crime (UNTOC), and its supplementing protocols, are all about?

- 79% Yes
- 21% No
3. LINKAGES BETWEEN FIGHTING CORRUPTION AND TACKLING ORGANIZED CRIME

It would be a remiss of this discussion if the two terms ‘corruption’ and ‘organized crime’ are not defined. The definitions of the two concepts will make it easy to show the linkages between fighting corruption and tackling organized crime from the perspectives of the CSOs consulted in this investigation.

a) Definition of Corruption

There are as many definitions of corruption as there are writers. These definitions are either intensional or extensional.[5] Intensional in the sense that they endeavour to give the essence of the term corruption and extensional in the sense that they list the objects that the term corruption describes.

Anti-corruption conventions or treaties have taken the extensional route by opting to list the objects that the term describes. For instance, the United Nations Convention against Corruption (UNCAC) does not define what corruption is. When the negotiations of the UNCAC began in early 2002, one option under consideration was not to define corruption at all but to list specific types or acts of corruption. Furthermore, Article 1 of the African Union Convention on Preventing and Combating Corruption (AUPCC) only states that Corruption are the many acts and practices including related offences proscribed in the Convention. Again, the Convention has listed what it considers as corruption, without intensionally defining it. In addition, Again reference to Article 1 of the SADC Protocol against Corruption (SPAC) defines corruption as “any act referred to in Article 3 of the same, and includes bribery or any other behaviour in relation to persons entrusted with responsibilities in the public and private sectors which violates their duties as public officials, private employees, independent agents or other relationships of that kind and aimed at obtaining undue advantage of any kind for themselves or others”

Intensional definitions give two impressions. Some definitions suggest that that corruption only takes place in the public sector whilst others broaden the scope to cover both the public and private sectors.

Definitions in favour of corruption in the public sector include:

- Transparency International defines corruption as the misuse of public power (by elected politician or appointed civil servant) for private gain.[6]
- Corruption Watch (2017) defines corruption as the abuse of public resources or public power for personal gain. [7]
- The International Monetary Fund (2016) defines corruption as “the abuse of public office for private gain.”[8]
There is another set of definitions that acknowledges the prevalence of corruption in both the private and public sectors.

I. The World Bank Group (2017) defines corruption as the practice of offering, giving, receiving or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party.[9]

II. Corruption is the misuse of entrusted power (by heritage, education, marriage, election, appointment or whatever else) for private gain.[10]

III. Transparency International (2016) defines corruption as the abuse of entrusted power for private gain.[11]

IV. A much more difficult, scientific definition for the concept ‘corruption’ was developed by Professor (emeritus) Dr. Petrus van Duyne: “Corruption is an improbity or decay in the decision-making process in which a decision-maker consents to deviate or demands deviation from the criterion which should rule his or her decision-making, in exchange for a reward or for the promise or expectation of a reward, while these motives influencing his or her decision-making cannot be part of the justification of the decision.”[12]

V. Chinhamo and Shumba (2007) defines corruption as the abuse or complicity in the abuse of private or public power, office or resources for personal gain[13]

These broader definitions cover not only the politician and the public servant, but also the CEO and CFO of a company, the CEO of a CSO, the notary public, the team leader at a workplace, the Administrator or Admissions-Officer to a private school or hospital, and the Coach of a soccer team, etcetera. However, the definitions such as the definition by the World Bank (2017), Transparency International (2016) etc, received a lot of praise because they recognize that corruption takes place in both the private and public sectors.

b) Definition of Organized crime

The UNTOC does not define organise crime but focuses on an organized criminal group which is defined as a “...a structured group[14] of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences[15] established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit;”[16]

c) Linkages between fighting Corruption and tackling Organized Crime

The major thrust of the assessment was to seek feedback from CSOs on existing literature/ evidence on the linkages between organized crime and corruption. The hunt for the existence of evidence on the extent of corruption attributable to organized crime and/or analysis of how far one drives the other was one of the assessment objectives. As exhibited through Figure 3 below, 80% of respondents claimed to be aware of the linkages between fighting corruption and tackling organized crime whilst 20% were not aware.

[14] “Structured group” shall mean 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;
[15] “Serious crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty
[16] Article 2 (a) of the UNTOC
Phale (2021) representing the Botswana Council of Non-Governmental Organizations (BOCONGO) stated that corruption is the main modus operandi used by organized criminal groups to explicitly or implicitly commit acts of organized crimes, which clearly acknowledges the linkages between corruption and organized crime. The same view was shared by the majority of CSOs consulted who all appeared to agree with Phale (2021) that organized criminal groups use bribes to get what they want to remain in the business. (Matendere 2021, Fael, 2021, Lungu, 2021, Modrau, 2021, Mateyo 2021, Vaughan 2021, Armando 2021, Coomar 2021, Lebofa 2021, Letsatsi 2021, Shabangu 2021, Chisenga 2021).

Bablee (2021) added that public officials give a blind eye to all forms of organized crimes such as trafficking in arms, humans, animals and animal parts, drug smuggling amongst others, after having been bribed. That being the case, criminals depend on corruption to attain their goals.

In keeping with the above, Chisenga (2021) and Modrau (2021) argued that fighting corruption thus prominently emerges as one of the key antidotes to fighting organized crime. The same view was shared by Bablee (2021) who also proposed that an incorruptible law enforcement regime at border posts and at airports is one of the leading panaceas to organized transnational organized crime.

Bidi (2021) argues that some individuals abuse diplomatic and immunity status to commit organized crime. These take advantage of the Vienna Convention on Diplomatic Relations of 1961 which gives them immunities and privileges from searches when they move from one country to the other.

On the same subject Chêne (2008) had decried paucity or scantiness of empirical research focusing on the link between organized crime and corruption, though circumstantial evidence indicated frequent collusion between organized criminals and corrupt officials at all levels of government. For instance, Chêne (2008) had noted that criminals often obtain protection from public officials, influence political decisions, infiltrate state structures and legitimate businesses through paying them bribes (corruption).[17]

In keeping thereof, it is important to obtain case studies to illustrate the specific characteristics of organized criminal groups in Africa and how corruption is used as part of their modus operandi to facilitate their criminal activities, avoid punishment and infiltrate public institutions.[18] However, it would a remiss of this study if it ignores views expressed by consulted CSOs on the subject.

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[18] Ibid
• Olatosimi (2021) from Nigeria argued that some organized criminal groups use money obtained through acts of corruption such as money laundering to sponsor organized criminal groups and hence the linkages between the two phenomena.
• Ndlangamandla (2021) from Eswatini took a different view and commended on the effects of both corruption and organized crime that tend to be the same since they all deprive the poor of resources for development and service delivery as well as undermining the country’s security, human rights and dignity.
• Sofola (2021) from Seychelles argued that criminal networks make use of corruption to escape prosecution, obstruct law enforcement and judicial processes; and in some cases destroying evidence.

Although there is little empirical research and statistics specifically focusing on the link between corruption and organized crime, the interdependent nature of these two phenomena can be demonstrated through the following cases obtained from Southern Africa:

• i. South Africa/Namibia: According to Felix (2020) a South African Home Affairs official based at its Embassy in Windhoek, Namibia, was arrested after being caught fraudulently issuing visas to non-qualifying Pakistani and Bangladeshi citizens. The scheme was so complicated that these Pakistani and Bangladeshi citizens were not even required travel to Namibia to get these documents. The visas were couriered to them and delivered on a silver platter after paying bribes to the official. The Department of Home Affairs ended up revoking 100 visas which the official had issued.[19] The case demonstrates that organized criminal group can use corruption to obtain visas to enable them to move from one nation to the other.
• ii. Zimbabwe: According to the Zimbabwe Republic Police (2021), one of its Departments, the Minerals and Border Control Unit intercepted about 15 kilograms of pure gold which was destined to be smuggled to South Africa. The police arrested Tomothy Makarimayi (49) and Fungai Mashava (28) who denied knowledge of the gold that was hidden in the car they were driving and they led the detective to another suspect Dennis Kwendamawira (60) who they allege had given them the vehicle to go to South Africa. The three suspects were arrested and further implicated another man Yaya Materiya (30). The suspects then offered the detective a bribe of US$60,000 which he declined and arrested them for bribery instead. Yaya Materiya requested to meet the Detective’s superior and offered him and the detective a bribe of US$193,230 as additional bribe money which they refused but instead chose to arrest the smugglers.[20] The case also demonstrates the linkages between corruption and organised crime.

iii. **South Africa**: In June 2021, the Malawian and Lesotho diplomats were ordered to leave South Africa after they were found guilty of engaging in illicit trade in duty-free alcohol. The South African government gave the diplomats and their families 72 hours to leave the country. The South Africa government said investigations into similar transgressions by other missions accredited to South Africa were “at an advanced stage and similar action will be taken should they be found guilty”. Several diplomats from Lesotho were expelled from South Africa on similar grounds.[21] This was not new since in 2015, a high-ranking North Korean diplomat accused of abusing his diplomatic immunity and his embassy’s diplomatic bag to smuggle rhino horn out of South Africa had also been expelled from the country. [22] This cases demonstrates how the Vienna Convention on Diplomatic Relations of 1961 was abused to commit crime.

The CSOs consulted gave several cases that shows the linkages between corruption and organized crime. Figure 4 below demonstrates that corruption is one of the leading facilitators of TOC.

*Figure 4: Corruption facilitates TOC*
4. PREVALENCE OF TRANSNATIONAL ORGANIZED CRIME AND THE SECTORS THAT ARE MORE PRONE OR VULNERABLE TO TOC

Important case studies range from wildlife trafficking, human trafficking, selling of illicit drugs, such as dagga, and smuggling of mineral resources. In addition, cases of bribery of law enforcement officers to give a blind eye to TOC were also highlighted. However, Figure 5 below shows that trafficking in persons (27%) is the most prevalent followed by environmental crimes such as wildlife and timber trafficking as well as peddling in drugs (14%) and dealing in counterfeit products (14%).

*Figure 5: Nature of Transnational Organized Crime (TOC)*

Another emerging category raised by CSOs from Mozambique is the practice of kidnapping and private imprisonment which are common in the country. Furthermore, another emerging trend are cases of forced labour to settle debts to employers or individuals who brought them in a foreign country. This case was also highlighted by CSOs from Mozambique.

The Figure 6 below will further show that the sectors/industries more prone to transnational organized crimes include entertainment and the sex industry (14%), mining (12%), health (11%), agriculture (10%) and security (10%). This is followed by domestic work (8%) and justice delivery (9%).

*Figure 6: Sectors prone to Transnational Organized Crime (TOC)*
A number of case highlights were given showing the existence of TOC in several Southern African countries. In addition, some of the cases show the linkages between corruption and TOC.

i. **Malawi is home to a number of cases. The following are shining examples:**
   - Bribing police officers by organized criminal group engaged in trafficking in persons.
   - Immigration officers issuing Malawian passports to foreigners.
   - Trafficking in persons by lying to poor employment seekers, particularly the youth that they will be hired in hotels outside the country when actually they will be subjected to inhumane conditions.
   - Trafficking of illicit drugs such as marijuana and heroine by some foreigners resident in the country.
   - Foreigners using loopholes or bribing public officials to obtain Malawian citizenship in order to get access to certain targeted countries for criminal reasons.
   - Transportation of illicit drugs beyond Malawi and passing through law enforcement checkpoints after payment of bribes.
   - The Table below summarises how girls are trafficked in Malawi and the gaps existing in Trafficking in Persons Act.

**Box 1: Example of Child-Trafficking in Malawi**

**Malawi**

Charity Helps Fight Child-Trafficking in Malawi, as Country Grapples to End Vice

*By Lameck Masina*

September 04, 2019 06:29 PM

BLANTYRE, MALAWI - Malawi is struggling to end child trafficking, despite existing legislation intended to stop the problem. The Trafficking in Persons Act, which was enacted four years ago, also mandated the creation of a special fund to support victims. But efforts to reinforce the law remain a challenge.

A teenager, who we'll call Maggie, recalls the day back in 2018 when she says she and other two girls were trafficked from Neno district in southern Malawi to work as prostitutes in the commercial capital, Blantyre.

Maggie says their families were misled by two strangers who came to their village, pretending that a woman was seeking to recruit girls as housemaids.

She says they were later turned over to this woman, but they were not taken to the person’s home.

Maggie says, “When we arrived in Blantyre, we were taken to a drinking joint full of men taking opaque beer. We were given knives [used to open the beer]. When we asked about the use of the knives, she told us that we were employed to serve beer and sleep with men to earn a living.”

Maggie was 17 at the time. The other two were 16 and 19. Maggie says although they were devastated and scared, thoughts of poverty back home forced them to do as they were told after being promised a salary of about $20 a month.

She says, “She gave us a target of sleeping with 40 men per day. But she was the one collecting the payment and never paid us the promised salary. And whenever we failed to meet the target, we were not given food to eat.”

After forcibly working as prostitutes for two months, Maggie, now 18, says tough conditions forced the three of them to flee.
The issue later caught the attention of child rights group People Serving Girls at Risk, which runs a project on child trafficking. Since last September, however, their case has been beset by delays, largely due to lack of interest in reinforcing existing anti-trafficking laws.

In 2015, Malawi enacted a Trafficking in Persons Act, which mandated the creation of a Trafficking in Persons (TIP) Fund to support victims in terms of care and court proceedings. Child rights campaigners say the arrangement continues to lack procedures to support the victims. They say, for example, no budget has been allocated to the fund this year.

Caleb Ng'ombo is the director of People Serving Girls at Risk. “Lack of enforcement of laws is affecting us in so many ways,” Ng'ombo says. “For example, for an institution to take a case to court, requires a lot of resources. And for you just to lose on a technicality is a major setback not only for us as an organization, but also to the girls who are searching for justice.” Ng'ombo says with support from international women’s rights organization Equality Now, efforts are being made to seek justice for victims.

“On average every year, we respond to a considerable number of cases, both in the way that we respond to them directly or just to make referral to other organizations, so I would say in a year an average of not less than 200 cases,” Ng'ombo says.

The organization also provides economic empowerment to vulnerable young people like Maggie. “We have identified a community-based trainer on tailoring skills as well as knitting skills to ensure that they have some business skills for them to manage the tailoring as well as the knitting project,” Ng'ombo says.

Peter Langwe is the child protection officer in the Ministry of Gender, Children, Disability and Social Welfare. He told VOA that despite challenges in reinforcement of the trafficking in persons legislation, other efforts are being made to stop the vice. Langwe says the ministry is holding meetings to encourage communities to reinforce child protection rules. He says the bylaws stipulate that those found or facilitating child trafficking are subjected to a penalty of four goats to their traditional leaders and have their cases taken to court. The effort, Langwe says, has helped cut trafficking in girls by one-half.


ii. In Mozambique the following cases demonstrate the rampant nature of TOC:

- A Malawian cargo truck driver was caught illegally transporting 10 undocumented Malawian women through Mozambique to South Africa in closed containers. The women had been promised employment, yet they were going to be subjected to sexual exploitation.
- Sexual exploitation of inmates in Ndlavela women’s prison.
- An employee under the Criminal Investigation Service who was assigned to investigate a crime of kidnapping, used his influence and functions to cover up and destroy criminal evidence in a bid to protect his family member who was involved in the crime of kidnapping and private imprisonment.
- The client who acquired real estate using money from illegally exploited timber smuggling in collusion with the local authorities, with the aim of exporting to China, and to facilitate the customs process, he corrupted a customs official working in Porto da Beira.

iii. In South Africa the following cases were highlighted:

- Police officials paid off by brothel owners in order to operate.
- Illegal border crossings allowing undocumented/ incorrectly documented individuals into and out of the country by land, air and sea.
- Creches used to facilitate recruitment of children for sex trade. It is alleged that social workers knew about the incident but gave a blind eye after receiving bribes.
iv. In **Mauritius**, the following cases were cited:

- Experts report illicit trade in wildlife such as birds and turtles, albeit on a very small scale,
- Cases of illegal trafficking of precious gemstones through Mauritius
- The most pervasive criminal market in Mauritius is the heroin trade, with a severe negative influence on society. Mauritius is reported to have one of the highest rates of heroin use in the region. Other significant issues are the extent to which state institutions and systems are involved with drug trafficking organizations, and levels of corruption, both of which enable heroin trafficking to occur. High and growing levels of synthetic drug use are also reported, due in large part to low prices. Mauritius is a trans-shipment point for synthetic drugs being trafficked to neighbouring countries.

v. In **Lesotho** the following cases demonstrate the rampant nature of TOC:

- A Minister was alleged to have been involved in bringing foreigners used as slaves in textile industries.
- Some foreigners have been trafficked and used as sex workers.

vi. The following cases were cited from **Botswana**:

- The mining sector has been hugely influenced by the organized crime as demonstrated by a study called “Diamond Deception”. The mining sector is much prone to corruption due the nature of the business. The ruling elites have organized themselves and formed partnership with the mining company to get shares
- Poaching and selling of elephant tusks is one of the most common crime in the country

vii. The following cases were cited from **Nigeria**:

- In the tourism sector travel agents are used to smuggle migrants and also human trafficking.
- Issuing of travel documents (passports) to people who do not deserve them after payment of bribes. Public officials help people to get passports in the unofficial channels with a price.
- Production and circulation of fake drugs in the society.
- Bribing of security personnel at the borders for smuggling of young women and girls to be used as domestic workers in the cities.
5. CIVIL SOCIETY CONTRIBUTIONS TO THE IMPLEMENTATION OF THE UNTOC

Apart from carrying their own activities in support of the implementation of the UNTOC, CSOs were also involved in activities organized by the UN, their governments and other CSOs. Figure 7 shows that 61% participated in TOC related activities organized by other entities whilst 39% did not participate.

**Figure 7: CSOs Participation in TOC related Activities organized by other entities**

The following are some of the activities which CSOs were involved though these were organized by other entities.

1. In Nigeria, the Child and Youth Protection Foundation was part of the grant appraisal committee of the UNODC project NGX41 that focused on human trafficking in selected states in Nigeria. The organization was also part of team that carried out a survey in Kano on the UNODC real life observatory data capturing project of the UNDOC.

2. In Lesotho, the Technologies for Economic Development (TED) attended a meeting on transnational organized crime that was also featured on Radio Program where a responsible Minister was invited.

3. In Eswatini, the Coordinating Assembly of NGOs (CANGO) is a member of the Eswatini Anti Human Trafficking Taskforce whose mandate is to respond to all issues linked to human trafficking. In addition, CANGO was involved in the development of the anti-human trafficking policy.

4. In Botswana, the Botswana Watch attended a meeting that was organized by UNODC to sensitize CSOs on issues of transnational crime and its impact in the region.

5. In Malawi, the Eye of the Child attended the National and Regional Response on human trafficking organized by UNODC Office in Malawi and ROSAF. In the same country, the Peoples Federation for National Peace and Development (PEFENAP) was involved in various activities on the Gun Destruction Day, Small Arms and Light Weapons Workshop in South Africa and the Small Arms Conference. The Kasalika Community Development Organization (KACOD) which is also based in Malawi was involved in awareness campaigns against trafficking in persons and development and drafting of Trafficking in Persons Act.

6. In Mozambique, the Centro de Integridade Pública (CIP) was involved in investigation into the vehicles contraband from South Africa to Mozambique and its connection with the Mozambican political elites.
Figure 8 below shows that 88% of the CSOs consulted were carrying out activities linked to the UNTOC whilst 12% were not involved.

*Figure 8: CSOs Activities linked to Tackling Organized Crime*

The following are the CSOs contributions to the implementation of the UNTOC in Southern Africa:

1. In Botswana, **BOCONGO** was involved in capacity building of school going students teaching about the dangers of drugs and substance abuse.
2. In Malawi, **the Catholic Development Commission** rescued persons being trafficked for cheap labor in Farms and girls smuggled for sex.
3. In Malawi, **Yamba Malawi** sensitized communities on child trafficking whilst in the same country, the Kasalika Community Development Organization (KACOD) raises awareness campaigns against trafficking in persons and drugs and medicines.
4. In Ghana, **Engage Now Africa (End Modern Slavery)** was involved in educating and raising awareness against trafficking in persons.
5. **The Foundation for Democratic Process (FODEP)** supported the government with the development and implementation of national responses against human trafficking through research, training and capacity building, coordination, public awareness and social mobilisation.
6. In Namibia, **NamRights** was engaged in monitoring and advocacy against or around such activities including naming and shaming of perpetrators of TOC as well as their prosecution.
7. In Malawi, **the Peoples Federation for National Peace and Development (PEFENAP)** advocated for non-proliferation of small arms and light weapons through the Global Week of Action against Gun Violence, SPEAK! Campaign, Week of Small Arms and Non-Proliferation, and the Amnesty Month. Furthermore, under the immigrants Proliferation and Border porosity, PEFENAP carried out minor spot checks at Songwe Border in Kalonga District Northern part of Malawi Bordering Tanzania. In addition, PEFENAP attempted to curb counterfeit Products through Electronic Brand Protection Limited (counterfeit Seeds, medicines, liquid food and other healthy products).
8. In Mozambique **CIP Mozambique** was involved in reported cases of selling driving licenses at the National Land Transport Institute (INATTER) and the smuggling of vehicles and alcoholic beverages.
9. In January 2020, **Transparency International-Mauritius** organized a regional workshop on the role of enablers in the fight against illicit financial flows.
10. **Shine on Malawi** carried out awareness campaigns on human trafficking in the Mzimba District of Malawi. The Box next page gives more details.
Box 2: Awareness campaigns on Human Trafficking in Mzimba District of Malawi

Awareness campaigns on Human Trafficking in Mzimba District of Malawi

In 2019, Shine on Malawi conducted 3 awareness campaigns on Human Trafficking in the district. This awareness campaign aimed at increasing attention to the issue of trafficking in persons in Malawi and creating a sense of protection in the communities. This was done through sensitizing of the general public on human trafficking and the Trafficking in Persons Act (2015). The organization also encouraged members of the public to report cases of human trafficking to the police.

Source: Interview with Mughandira on 10 August 2021

11. People Serving Girls at Risk rescued women trafficked for the purposes of prostitution. Among the activities of the organization include:
   - Taking cases of child trafficking to court on behalf of victims. On average the organization responds to not less than 200 cases per annum
   - Providing economic empowerment to victims. The organization employed a community-based trainer on tailoring skills as well as knitting skills to ensure that victims have some business skills for them to manage the tailoring as well as the knitting project[23]

12. In Nigeria, the Women, Infants and Children Care Initiative was involved in campaigns against the trafficking of young girls for cheap labour.

Box 3: Awareness campaigns against trafficking young girls for cheap labour

Nigeria.

Awareness campaigns against trafficking young girls for cheap labour. The organization raised awareness in communities on the use of girls from other West Africa country as domestic workers which was exploitative in nature. The CSO partnered with other organization to investigate the routes used by traffickers to get trafficked girls to major cities in Nigeria. In addition, with support of UNODC the organization provided protection, medical assistance and material support to some identified victims of trafficking in Benin City, Edo State in Nigeria.

6. PROPOSED CIVIL SOCIETY CONTRIBUTIONS TO ADDRESSING LINKAGES BETWEEN CORRUPTION AND TOC

The assessment has established that CSOs enjoy a matrix of competencies and skills that can be deployed in fighting against transnational organized crime. The Figure 9 below summarises these contributions.

Figure 9: CSOs Distinctive Contributions to fighting TOC

1. Community conscientization against transnational organized crime: In an effort to curb TOC, civil society can raise awareness against TOC in all its various forms targeting communities as well as public officials. It is important for communities and public officials to know what TOC is, the linkages between TOC and corruption as well as the negative consequences of engaging in TOC. (Phale 2021, Kabwazi 2021, Lebofa 2021, Chisenga 2021, Ndlangamandla 2021, Komla 2021, Adebayo 2021)

2. Engaging governments to enforce extant laws: One of the key challenges observed is the lack of enforcement of existing laws made promulgated to fight TOC. To this end, civil society can advocate for the implementation of these laws and the deployment of law enforcement agents at strategic places such as border posts and airports where some of the TOC related activities are facilitated. (Matendere 2021, Munyala 2021)

3. Capacity building and/or development: Civil society organizations enjoy a matrix of knowledge, skills and attitudes that can be of benefit to other civil society organizations and government institutions. To this end, civil society organizations can be involved in training programmes targeting the law enforcement agents and the prosecution services, especially in areas where capacity gaps exist. (Lungu 2021, Bablee 2021, Mwakagenga 2021, Armando 2021, Morapedi 2021, Chisenga 2021, Mkandawire 2021, Munyala 2021, Letsatsi 2021)

4. Public Interest litigation on behalf of victims of TOC: Civil society organizations can be involved in strategic public interest litigation for and on behalf of victims of TOC (Bidi 2021).
5. Research and Advocacy for Policy and Law Reform: Civil society organizations are known for conducting good quality research on legal and policy gaps. The findings of the research will create knowledge based advocacies which is a key requirement in addressing the linkages between corruption and TOC. In addition, there was interest among CSOs to conduct research on community based linkages that are most time hidden from the public. (Olatosimi 2021, Chisenga 2021, Zita 2021, Sofola 2021, Letsatsi 2021, Coomar 2021, Shabangu 2021, Ngulinga 2021, Modrau 2021).

6. Monitoring and reporting on UNTOC State Parties progress vis-à-vis the implementation of the UNTOC: Civil society organizations play an important role in advocacy for the implementation of UNTOC commitments. In the event that there are recommendations made under the UNTOC implementation review mechanism (UNTOC IRM), though still at its infancy, CSOs can be involved in advocacy to ensure that UNTOC State Parties implement the recommendations made. (Chisenga 2021).

7. Collaboration and Information exchange: Civil society organizations can also competently facilitate collaboration amongst CSOs, and sharing of best practices and experiences. (Chisenga 2021).

However, the contributions of CSOs are undermined by a number of challenges. Figure 9 below summarises the challenges raised by the CSOs consulted.

Figure 10: Important preconditions to the CSOs more effective
1. Funding CSOs: Lack of funding stands out as one of the teething challenges facing civil society organizations. This affects their ability to contribute to the implementation of the UNTOC. To this end, making funding available to CSOs was among the proposed solutions. (Chitukwi 2021, Mwakagenda 2021, Mwale 2021, Chaka 2021)

2. Lack of Qualified Personnel: CSOs should be able to carry out their activities with competence and mastery. However, some CSOs rely on volunteers without the required technical and professional qualifications, mastery of the subject and adequate means of work. (Armando 2021)

3. Lack of knowledge of the UNTOC, its protocols and CSOs entry points into the implementation processes. Knowledge of the UNTOC and how CSOs can be engaged in its implementation is one of the important preconditions for the quality of their contributions. However, the process starts from knowing the contents of the UNTOC itself followed how to participate. That being the case, it is important for training to be conducted on the UNTOC and its three supplementing protocols. (Chaka 2021)

4. Hostile relationship between CSOs and Governments: In some countries in Southern Africa, there is a hostile relationship between CSOs and their governments, which makes it difficult for CSOs to make contributions to the implementation of the UNTOC. (Nangoloh 2021, Vaughan 2021)

5. Threats: In addition to a corrosive relationship between civil society and governments, civil society organizations also face threats from transnational organized groups and security agents. Fighting organized crime increasingly remains risky which Chaka (2021) from Malawi has likened it to ‘treading on a razor blade’. Zita (2021) from Mozambique added that civil society involved in the investigations of sensitive issues is very risky. In keeping thereof, Augusto (2021) stated that civil Society members must be protected against reprisals.
7. SUPPORT SOUGHT FROM UNODC AND OTHER DEVELOPMENT PARTNERS

In order to empower CSOs to contribute to the implementation of the UNTOC, a number of propositions were made to UNODC and other development partners. These propositions are all calculated to address challenges which CSOs face in fighting transnational organized crime. On the list of challenges to be addressed with support from UNODC and other partners include the following:

a) Skill and knowledge gaps undermining CSOs contribution in the most effective, efficient and sustainable manner;

b) Inadequate financial and human resources;

c) Lack of information sharing of best practices;

d) Security threats.

The figure below summarises the support sought from UNODC and other development partners

*Figure 11: Support needed to make CSOs more effective*

- **Capacity development and/or enhancement**: A significant majority of CSOs consulted decried lack of capacity to contribute effectively to the implementation of the UNTOC. That said, UNODC was requested to consider enhancing or developing the capacities of CSOs to achieve UNTOC implementation objectives over time. In some CSOs, UNODC should support the initial stages of building or creating capacities based on an assumption that there are no existing capacities to start from. This is the case in some CSOs consulted. To this end, skills, experience and knowledge training on the UNTOC and its review mechanism was proposed. *(Faél 2021, Lungu 2021, Chisenga 2021, Olatosimi, 2021, Adebayo 2021, Mdara 2021, Chitukwi 2021, Lebofa 2021, Coomar 2021, Augusto 2021, Sofola 2021, Mwale, 2021, Morapedi 2021, Komla 2021, Mkandawire 2021, Nangoloh 2021, Chisenga 2021, Ndlangamandla 2021).*
7. Support sought from UNODC and other development partners

- **Facilitating Information exchange, especially best practices**: UNODC and other partners should facilitate learning and exchanging of information on TOC and existing best practices to curb the same. (Chaka, 2021.)

- **Human and financial resources**: UNODC should provide technical and financial assistance, considering that the majority of the CSOs consulted were facing serious financial challenges undermining their ability to contribute to the fight against TOC. (Munyala 2021, Augusto 2021, Mwakagenda 2021, Ngulinga 2021, Mughandira 2021, Kabwazi 2021, Chisenga 2021, Chaka 2021, Armando 2021, Nangoloh 2021, Munyala 2021, Phale 2021, Matendere 2021, Kabwazi 2021, Letsatsi 2021)

- **Development of advocacy materials, including Tool kits**: The development of either standardized or tailor made advocacy materials and Tool kits based on best practices will help to popularise the UNTOC and influence policy and law reform. Some of the tools should support CSOs to work constructively with their governments and the private sector on the UNTOC implementation (Coomar 2021, Morapedi 2021, Letsatsi, 2021)

- **Security measures**: Concerns were raised on security of CSOs from organized criminal groups, especially when these groups feel threatened through civil society efforts. It was proposed that UNODC should provide security training (Zita 2021, Chaka 2021).
8. AREAS TO LEARN MORE ABOUT IN THE UNTOC AND THE THREE SUPPLEMENTING PROTOCOLS (LEARNING NEEDS)

Against, earlier reflections through Figure 2 wherein 79% expressed knowledge of the UNTOC, and its supplementing protocols, whilst about 21% did not know about it, the results below show convincingly that knowledge gaps still exist that hampers CSOs contributions to the implementation of the UNTOC:


ii. Training on detection and reporting of TOC: In addition, Nangoloh (2021) from NamRights requested training on how CSOS can support the detection of TOC. TOC manifestations of organized crime and the process for the domestication of the (Nangoloh 2021, Coomar 2021)

iii. Training on new concepts related to the UNTOC and its Protocols: The UNTOC has introduced new concepts that should be clearly understood by CSOs and among these include migrant smuggling, and trafficking in persons. To this end, it was proposed that trainings should be conducted to ensure understanding of these concepts since they are often confused. For instance, Sofola (2021) from Seychelles, felt that human trafficking should be differentiated from instances in which employment seekers get employed by bona fide employers out of their countries. To this end, proposals were made to ensure that CSOs get trained to understand these important terms. (Sofola 2021)

iv. Linkages between organized crime and peace/security: As shown above, clear linkages exist between corruption and organized crime. Similarly, other CSOs consulted demonstrated linkages between peace, security and organized crime, with indications that peace and security is threatened by organized crimes. That being the cases, it was proposed that there be trainings and more researches demonstrating these linkages (Bidi 2021)

v. Tools for advocacy and engagement: Civil society contributions to the implementation of the UNTOC requires the right tools in form of guidance notes for use in advocacy, as well as educating the society. Civil society wants to learn more about how to be actively engaged in the fight against transnational organized crime, with particular emphasis on migrant smuggling, and trafficking in persons (Armando 2021, Lebofa 2021,)
vi. Implementation and Domestication: Role of CSOs: UNTOC state parties (governments and regional economic integration organizations) in partnership with civil society organizations play a very important role in ensuring not only the realisation of the domestication processes but the implementation of national extant laws and policy frameworks in a country. CSOs need to learn on their role in the domestication process. Other CSOs expressed interest to know more about the status of implementation of the protocols and more information on what CSOs can do apart from awareness creation and advocacy to enhance the implementation of the protocols. (Olatosimi 2021, Coomar 2021 Kabwazi, 2021).

vii. UNTOC Implementation Review Mechanism (IRM): Training on UNTOC and its review mechanism, especially how CSOs can participate in the UNTOC IRM. (Chaka 2021).

viii. Training on Research, Documentation of TOC, CSOs Contributions and Best Practices: Research and documentation skills were identified among existing gaps undermining the contributions of CSOs to the implementation of the UNTOC. To this end, trainings were requested to ensure that CSOs can research well, write reports, document their contributions, and best practices (Chitukwi 2021, Chisenga 2021, Ndlangamandla 2021).
Civil society organizations play a pivotal role in fighting transnational organized crime, that ranges from providing expertise to governments, conducting research, monitoring and reporting on the status of implementation of UNTOC commitments, denouncing all forms of organized crime, advocacy activities and as well as raising awareness on what TOC is and its deleterious effects.

Whilst civil society organizations make these distinctive contributions, they also face a plethora of challenges that undermine their effectiveness. On the list of challenges include poor coordination mechanisms, mistrust between CSOs and governmental counterparts, competition for scarce resources, lack of expertise, lack of public knowledge and interest in the UNTOC, and partly due to some UNTOC State Parties that have encumbered the involvement of civil society in the implementation of the UNTOC.

In view of the above findings, the following recommendations are made:
Considering the linkages between corruption and TOC, there is need to mainstream anti-corruption in all TOC related programmes and projects.

a) **CSOs should be adequately resourced to be able to contribute effectively to the implementation of the UNTOC.**

b) **Development partners such as UNODC and others should consider supporting CSOs in the following areas:**
   - Capacity development and/or enhancement.
   - Facilitating information exchange, especially best practices on fighting TOC.
   - Human and financial resources, and
   - Development of advocacy materials, including Tool kits.

c) **CSOs capacity development/building programmes should target the following areas:**
   - Training on detection and reporting of TOC.
   - Training on new concepts related to the UNTOC and its Protocols.
   - Training on the Linkages between organized crime and peace/security.
   - Training on using Tools for advocacy and engagement.
   - Training on UNTOC Implementation and domestication.
   - Training on how CSOs participate in the UNTOC Implementation Review Mechanism (IRM).
   - Training on Research, documentation of TOC, CSOs Contributions and Best Practices.


## Annexes

### List of Consulted Civil Society Organizations

<table>
<thead>
<tr>
<th>Country</th>
<th>Name of CSO</th>
<th>Contact Person</th>
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<td>Zimbabwe</td>
<td>Interfaith Council for Peace and Justice Trust</td>
<td>Rev. Jackie Ngubhe</td>
<td><a href="mailto:jengubhe@gmail.com">jengubhe@gmail.com</a></td>
</tr>
</tbody>
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