

Intensifying the fight against corruption and money laundering in Africa

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This study is produced by the Office of the Special Adviser on Africa (OSAA) within its mandate to support analytical work in improving coherence and coordination of the UN System support to Africa and to facilitate intergovernmental deliberations on Africa.

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Abbreviations

AfDB	Africa Development Bank	UN	United Nations
AML	Anti-Money Laundering	UNCAC	United Nations Convention against Corruption
APRM	African Peer Review Mechanism	UNCTAD	United Nations Conference on Trade and Development
AU	Africa Union	UNODC	United Nations Office on Drugs and Crime
BO	Beneficial Ownership	UNSG	United Nations Secretary-General
CAPAR	Common African Position on Asset Recovery	US	United States
CDD	Customer Due Diligence	WB	World Bank
ECA	Economic Commission for Africa	WFP	World Food Programme
ECOWAS	Economic Community of West African States	WHO	World Health Organization
FAO	Food and Agriculture Organization		
FACTI	Financial Accountability, Transparency and Integrity		
FATF	Financial Action Task Force		
FCAS	Fragile and Conflict Affected States		
FCPA	Foreign Corrupt Practices Act		
FIU	Financial Intelligence Unit		
FRC	Financial Reporting Centre		
HIPC	Highly Indebted Poor Countries		
IFAD	International Fund for Agricultural Development		
IMF	International Monetary Fund		
INCSR	International Narcotics Control Strategy Report		
KYC	Know Your Customer		
MER	Mutual Evaluation Reports		
SADC	Southern Africa Development Community		
SAR	Suspicious Activity Report		
SDGs	Sustainable Development Goals		
StAR	Stolen Assets Recovery Initiative		

1. Setting the scene

Illicit financial flows (IFFs) cost Africa around US\$88.6 billion¹ per year. They have hamstrung progress and created poverty, insecurity and financial challenges which today impede implementing the 2030 UN Agenda for Sustainable Development and the AU Agenda 2063: The Africa We Want. IFFs have also driven the African continent towards indebtedness.² The United Nations Economic Commission for Africa (ECA) estimates that these losses are equivalent to a proportion of three-quarters of the amount required to make progress on Sustainable Development Goal 3 (SDG 3) (Health and Well-being); a quarter of the amount needed for SDG 4 (Education); and a third of the additional amount needed for SDG 9 (Infrastructure).³

The High-Level Panel on Illicit Financial Flows from Africa (Mbeki Panel) report identifies three drivers/sources of IFFs: **1) commercial practices related to trade and tax abuse including tax avoidance and BEPS practices by multinational corporations that are not necessarily illegal**; the Mbeki panel found these account for 65% of IFFs from Africa and thus represent a significant driver of IFFs, particularly considering the global architecture relating to commercial IFFs is less developed than the other two drivers; **2) criminal practices such as money laundering, trafficking,**

smuggling and tax evasion; these account for 30% of IFFs from Africa; and 3) corruption involving government officials including bribery and abuse of public office, estimated at 5% of IFFs from Africa. Fighting IFFs requires understanding the political economy including vested interests and power dynamics that are invested in it and benefit from it. This study will focus on corruption and money laundering.

The panel on Financial Accountability, Transparency and Integrity (FACTI) adopted the definition from the Mbeki panel as expanded by UNODC/UNCTAD to define IFFs as *'financial flows that are illicit in origin, transfer or use, that reflect an exchange of value'*⁴ and that cross country borders'.⁵ Such illegality results out of commercial, corruption-related and criminal activities through which money is earned and shifted using illegal practices. IFFs also cover some forms of transfer mispricing, profit shifting, and trade mis-invoicing. IFFs can result out of ambiguities in taxation laws, poorly negotiated bilateral agreements that enable tax base erosion, offshore asset sales and through the falsification or exaggeration of intra-group transactions such as management fees and royalties. Examples of corruption and criminal related IFFs include activities such as gold smuggling, trafficking

1 UNCTAD, Tackling Illicit Financial Flows for Sustainable Development in Africa [2020] EDAR Report.

2 UNCTAD, Tackling Illicit Financial Flows for Sustainable Development in Africa [2020] EDAR Report; N L Kuditchar, Curbing illicit financial out-flow from Africa: the phenomenology of institutions in Ghana (2020) *Journal of Contemporary African Studies*, Vol. 39, Issue 1; C Abugre, Cobham A, R Etter-Phoya et al., Vulnerability and Exposure to Illicit Financial Flows risk in Africa (Tax Justice Network, 2019); S Ibi Ajayo and L Ndikumana (eds), *Capital Flight from Africa. Causes, Effects and Policy Issues* (OUP 2015); J D Nkurunziza, Illicit Financial Flows: A Constraint on Poverty Reduction in Africa (2012) *Association of Concerned African Scholars*, Bulletin No. 87.

3 ECA Primer—Economic governance report, 2021.

4 not only funds.

5 UNCTAD, 'Tackling Illicit Financial Flows for Sustainable Development in Africa' (EDAR Report 2020); United Nations, Economic Commission for Africa, 'Illicit Financial Flows: Report of the High-Level Panel on Illicit Financial Flows from Africa' (Addis Ababa 2015).

in weapons, drugs and humans, ransoms for kidnappings, hacking, sim-box fraud, and the use of electronic zappers for tax evasion purposes. IFFs are a global problem due to their multidimensional and transnational nature.

IFFs have been nurtured and protected by leading international systems, with advanced capital and financial markets which have structured the global economy to facilitate no/low tax, low regulation, secrecy, and anonymity to enable footloose finance to move across the globe.⁶ International markets for diamonds, gold, and ivory from Africa, for example, created patterns of licit and illicit trade for these resources. The opportunities for illicit trade have been facilitated through corruption, trafficking, and money laundering. In turn, corruption and money laundering has been partly fostered by external interference, degradation of regulations, and political patronage on the continent.⁷ Illicit trade in African resources at the global level is facilitated through the international economic order, external institutions and market players who have imposed conditions on Africa conducive to protecting their investments.⁸ Hence the demand for deregulation of the private sector, trade and financial liberalization, and minimal state intervention in the economic market and private sector.⁹

Corruption and money laundering are further exacerbated by the policies and politics at the global level promoting a race to the bottom in tax competition incentivized by the desire to attract Foreign Direct Investment (FDI), and tax abuse facilitated by professional intermediaries such as accountants, bankers and lawyers, who play a key role in tax structuring and potentially facilitating capital flight.¹⁰ The existence of secrecy jurisdictions, tax havens, global accountancy firms and light regulations at the global level have encouraged state and non-state actors to engage in corruption and money-laundering activities.¹¹ Illicit financial flows are a global problem and a shared responsibility for developed and developing countries.

This study will focus on one form of IFF, namely corruption and the resultant money laundering. The central aim is to describe and analyse the symbiotic relationship between corruption and money laundering and how they mutually reinforce an IFF ecosystem inclined towards draining resources needed for development.

Relatedly, the study examines the nature of the corruption/money laundering interface and the various forms it can take. It proposes measures to enhance the effectiveness of the fight against corruption and money laundering.

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- 6 O Okanga and L. A. Latif, 'Tax Vulnerabilities in Africa: Revisiting Inclusivity in Global Tax Governance' (2021) *African Journal of International Economic Law*, Vulnerabilities in International Economic Law, 1 (2); G Zucman, *The Hidden Wealth of Nations: The Scourge of Tax Havens* (The University of Chicago Press, 2015); L Ndikumana and J K Boyce, *Africa's Odious Debts: How foreign loans and capital flight bled a continent* (Zed Books Ltd, 2011); R Palan, *The Offshore World: Sovereign Markets, Virtual Places and Nomad Millionaires* (Cornell University Press, 2003).
 - 7 K J Ani, V Ojatorotu and K Bribena, *Political Economy of Resource, Human Security and Environmental Conflicts in Africa* (Palgrave Macmillan, 2021); IDEA, *The Integrity of Political Finance Systems in Africa: Tackling Political Corruption* (2019) International IDEA Policy Paper No. 20.
 - 8 R Ajulu, *Post-Colonial Kenya: The Rise of an Authoritarian and Predatory State* (Taylor & Francis, 2021); L Latif, 'The Lure of the Welfare State following Decolonisation in Kenya' in Gurminder K Bhambra and Julia McClure (eds) *Imperial Inequalities: States, Empires, Taxation*. (Kilombo forthcoming); Ahmed Mohiddin, *African Socialism in Two Countries* (Croom Helm, 1981).
 - 9 Mentan, Tatah. 2010. *The State in Africa: An Analysis of Impacts of Historical Trajectories of Global Capitalist Expansion and Domination in the Continent*. African Books Collective; Ahmed Mohiddin, *African Socialism in Two Countries* (Croom Helm, 1981).
 - 10 M Ros-Tonen, J Aggrey, D P Somuah et al., Human insecurities in gold mining: A systemic review of evidence from Ghana (2021) *The Extractives Industries and Society*; M Ogonnaya, Illegal mining drives Nigeria's rural banditry and local conflicts, ENACT Observer, 28 May 2020; N J Lord, L Campbell and K van Wingerde, Other People's Dirty Money: Professional Intermediaries, Market Dynamics and the Finances of White Collar, Corporate and Organised Crimes (2019) *BRIT. J. CRIMINOL* 59, 1217–1236; FATF, *Professional Money Laundering* (2018); A Marc, N Verjee and S Mogaka, *The Challenge of Stability and Security in West Africa* (World Bank, 2015).
 - 11 S Ibi Ajayo and L Ndikumana (eds), *Capital Flight from Africa. Causes, Effects and Policy Issues* (OUP 2015); F Barry, *Capital Flight, Safe Havens and Secrecy Jurisdictions* (African Economic Research Consortium, 2014).

This study suggests that the current strategies to deal with corruption and money laundering have fallen short of expectations at least in part because these problems have been considered in isolation. By understanding intersections across corruption and money laundering with their potential to undermine peace and security, humanitarian work, development and achieving human rights, our knowledge on the money trail will be improved.

Consequently, the focus in the next section is to begin by highlighting the enabling environment that is conducive to IFFs in the form of corruption and money laundering in Africa and later under section 3 to map the implications of the enabling environment in undermining peace and security, humanitarian work, development, and progress towards achieving human rights. An examination of the operational challenges in existing conventions, laws, and policies to fight against corruption and money laundering, especially in the way the measures are implemented in practice will be considered under section 4. And later in section 5, policy, and legal reforms to target these disguised forms of illicit finance more effectively will be recommended.

Evidence for the arguments advanced in this study are drawn from a range of official documents and reports, academic writing, and media coverage with a particular focus on the corruption/money laundering interface in the Africa region. To prevent the discussion from being pulled in too many directions, coverage is limited to instances of controlled and uncontrolled corruption arising out of the political context, as well as the economic and social context. The existence of organized crime and illicit trade as enablers of money-laundering schemes are also examined.

2. Framing the global and local political economy conducive to IFFs through corruption and money laundering

Illicit financial flows result in a devastating impact on African economies, peace and security, human development, and the achievement of human rights. The Africa Union, United Nations, World Bank, and International Monetary Fund consider IFFs as one of the greatest obstacles to lifting millions of Africans out of poverty. The Mbeki Panel report unanimously adopted by the AU Summit, which formed the basis of the AU Special Declaration on IFFs from Africa, states that 65% of IFFs are from commercial sources (often legal). In this context, the global focus on crime and corruption while important, distorts the narrative by ignoring two-thirds of the IFF problem.

The various forms of IFFs, corruption, money laundering and commercial are mutualistic. Not only do ***‘they tend to co-occur, but more importantly the presence of one tends to reciprocally create and reinforce the incidence of the other’***.¹² For example, the same channels used for illegality (tax evasion) are used for “legal” IFFs. Therefore, it is important to break the false dichotomy between legal and illegal IFFs. Corruption and money laundering are closely interrelated and adversely affect a state’s progress towards development and achievement

of human rights. They both have the potential to threaten peace, security and humanitarian work within a state and its neighbouring countries. To what extent the two contribute towards the conceptualization and definition of IFFs is discussed next after a brief description of what these terms mean and how they are defined.

2.1. Corruption

Corruption is the abuse of entrusted authority for private gain. It covers a wide range of behaviour, from petty to grand bribery, insider trading, embezzlement, trading in influence, and illicit enrichment.¹³ Controlled corruption exists where the country’s ruling elite have a relatively strict control of the processes and proceeds of corruption. Uncontrolled corruption tends to be more common and unpredictable. It is a decentralized, disordered, and irregular pattern of corruption, more harmful for economies and difficult to measure in terms of who gains what and from what. The controlled form of corruption can be systemic (integrated within the economic, social, and political system) and the sporadic (irregular) uncontrolled form. Do the current anti-corruption strategies propose different

¹² D Chaikin and J C Sharman, *Corruption and Money Laundering. A Symbiotic Relationship* (Palgrave Macmillan 2009) p. 1.

¹³ UNCTAD, ‘Tackling Illicit Financial Flows for Sustainable Development in Africa’ (EDAR Report 2020).

strategic and programmatic approaches towards preventing these forms of corruption? Whether these strategies recommend targeted measures, or a one size fit all approach to combatting corruption will be assessed later in this study.

2.2. Money laundering

Money laundering can be described as the process of obscuring the illegal origins of money derived from crime or illicit trade.¹⁴ The Financial Action Task Force (FATF) describes money laundering as **'the processing of criminal proceeds to disguise their illegal origin. This process is of critical importance, as it enables the criminal to enjoy these profits without jeopardizing their source'**.¹⁵ A money-laundering scheme, while the process may comprise a single act, it is often a highly sophisticated and complex transnational activity, especially when corruption is involved. It frequently involves a three-stage process: placement, layering and integration.

Placement refers to placing the criminal funds into the financial system directly or indirectly. Layering refers to the process of separating criminal proceeds from their source by using complex layers of financial transactions designed to hide the audit trail and provide anonymity. If the layering process succeeds, integration schemes place the laundered proceeds back into the legitimate economic activity in such a way that they appear to be normal business funds.¹⁶ Indeed, this is now an established trend involving both controlled and uncontrolled corruption where illicit money is disguised, then placed into circulation with the help of professional service providers (lawyers,

private bankers), financial institutions (formal and informal, such as hawala/hundi system), shops, informal sector, and other businesses domestically and transnationally.¹⁷

Falsification of invoices or trade mis-invoicing is a form of commercial/trade-based IFFs, utilized as a method to hide illicit funds sourced out of criminal acts. By fraudulently manipulating the price, quantity or quality of goods or services on an invoice submitted to customs or revenue authorities, it is possible to easily shift substantial sums of money across borders and into an economy. IFFs therefore are interconnected. Usually, the different forms of IFFs are facilitated by corruption and money-laundering schemes. For example, illegal mining and moving illegally sourced minerals across borders require complicity of local and global actors along the supply chain. Usually, interlocutors involved are freight forwarders and custom brokers, public officers/authorities, legitimate markets that are infiltrated, illegal markets, third party intermediaries and professional service providers. Money earned from the sale of illegally mined minerals requires money laundering schemes through which the illegal earnings are lawfully deposited into the source country and integrated within its financial system.

2.3. Strengthening the definition of IFFs: the political economy of corruption/money laundering

Money laundering and corruption involve cross border movements of money. However, some money laundering and corruption are generated and consumed locally. According to the 2020

¹⁴ This includes trade not only in drugs, humans, and arms but also in counterfeit pharmaceuticals, electronics, software piracy, counterfeit and diverted cigarettes, environmentally protected species and natural resources.

¹⁵ FATF, 'What is money laundering'. Available at: www.fatf-gafi.org/faq/moneylaundering/

¹⁶ D Hopton, *Money Laundering. A Concise Guide for all Business* (2nd edn., Routledge, 2009).

¹⁷ See: J Hatchard, *Combatting Money Laundering in Africa. Dealing with the Problem of PEP* (Edward Elgar 2020).

UNCTAD Economic Development in Africa Report while corruption facilitates money laundering, the latter also makes corruption possible and profitable.¹⁸ They both pose the greatest threat to economic development, political stability, peace and security, humanitarian work and progress towards achieving human rights. Their occurrence and magnitude, however, are difficult to measure with any certainty. Yet, corruption generates proceeds of crime to be laundered. UNCTAD estimates suggest that Africa annually loses \$88.6 billion from the three drivers of IFFs: commercial, criminal and corruption-related. These estimates are likely conservative due to the hidden nature of all the practices that drive IFFs. For example, tax avoidance activities are opaque. In 2018, during the International Anti-Corruption Day, the United Nations Secretary-General Antonio Guterres estimated that corruption costs the global economy more than \$3.6 trillion annually.¹⁹ Estimates from the African Development Bank have suggested that Africa annually loses about \$148 billion to corruption.²⁰ In so far as money laundering is concerned, by its very nature as an illegal activity carried out by public and private actors alongside aspects of underground economic activity, it is not quite possible to offer precise statistics or definite estimates. Rough estimates, however, have been put forward by the UNODC and IMF. The UNODC suggests that about 3.6% of global GDP approximately \$1.6 trillion is laundered.²¹ The IMF has similarly reported that laundered proceeds could be anywhere between 2 and 5 per cent of the global GDP.²² While these estimates confirm the prevalence of corruption and money laundering, national and global measures to aid in the recovery of these funds remain wanting. The data suggests that corruption and money laundering are a global

problem and effective global strategies will be required to combat these IFFs. Further, country by country statistics are available on how countries augur on the Corruption Perception Index and through the corruption scandals that make public news. Money laundering is more complex and even the FATF has not provided statistics.

Such illicit funds are increasingly laundered through the domestic and international financial systems. Their interference with the legal and financial systems can compromise the working of anti-money laundering systems and frustrate the enforcement of anticorruption measures. Considering this, the study delves into examining the nature of the corruption/money laundering interface and the various forms it can take. It proposes measures to enhance the effectiveness of the fight against corruption and money laundering. The study suggests that the current strategies to deal with corruption and money laundering have fallen short of expectations at least in part because these problems have been considered in isolation. By understanding intersections across corruption and money laundering with their potential to undermine peace and security, humanitarian work, development and achieving human rights, our knowledge on the money trail will be improved.

The failure to properly understand the corruption/money laundering interface limits the full understanding of the two problems and undermines the success of policy measures to tackle them. Therefore, looking at the two issues through an integrated lens can bring in much-needed clarity to the definition of IFFs and give the appropriate attention to the political and

18 UNCTAD (2020) *supra*, n 2, p. 90.

19 <https://news.un.org/en/story/2018/12/1027971>

20 UNCTAD (2020) *supra*, n 2, p. 22.

21 UNODC, *Illicit money: how much is out there?* (2011)

22 <https://www.fatf-gafi.org/faq/moneylaundering/>

economic environment. This approach could help in constructing a comprehensive definition of IFFs because including the political economy environment associated with money laundering/corruption will help in reconciling unregulated but lawful activities as part of the IFF taxonomy. This approach to understanding IFFs is important.

As currently defined by the World Bank, IFFs refer to cross border financial transfers **'that have a clear connection with illegality.'**²³ Based on this definition, the financial activity or transfer must be illegal for it to be deemed as IFFs. This definition does not account for financial activities that encompass unethical commercial acts that are deemed to be formally lawful if unregulated. It is the broad definition of IFFs envisaged under the 2015 AU-ECA High Level Panel on Illicit Financial Flows from Africa report that stretches the definition further by including transactions that are deemed unethical, even if not illegal in the assessed jurisdiction.²⁴ The definition included aggressive tax avoidance and financial secrecy. The definition of IFFs constructed as part of the SDG Indicator 16.4.1 by the Task Force on the Statistical Measurement of IFFs established by the United Nations Conference on Trade and Development and the United Nations Office on Drugs and Crime (UNODC) describes IFFs as: **'financial flows that are illicit in origin, transfer or use; that reflect an exchange of value instead of purely financial transactions; and that cross country borders.'**²⁵

This definition identifies four categories of IFFs according to the activity generating them: **tax and commercial practices, illegal markets, theft and terrorism financing and corruption.** It is important to consider the political economy environment that permits, within the bounds of legality, disguised forms of illicit wealth. For example, the Ease of Doing Business in African countries makes it easy to register companies for purposes of trading and layering their wealth across lawful enterprise. While illicit in origin, the legal system is unable to detect, trace and deter funds deposited in the registered company's bank account that may, for example, be recorded as intended for humanitarian work. This fault line explains in part why there is still no universally agreed intergovernmental definition of IFFs.

The 2020 UN FACTI Panel report adopts the UNCTAD/UNODC definition and points to the political economy environment that permits IFFs to thrive. In the report, the financial system is viewed as the culprit and recommendations are made by way of introducing FACTI principles to strengthen the financial system against enabling IFFs. The UN FACTI Panel report proposes to strengthen the financial system against IFFs through a methodological framework governed by principles. **Financial Accountability, Transparency, and Integrity (FACTI)** are the principles which will gradually wear down IFFs when embedded in financial systems. Whether these principles complement the FATF recommendation on anticorruption and anti-money laundering measures will be analysed under section 2. The UN FACTI Panel report views IFFs **'as a systemic problem that requires a systemic solution.'**²⁶

23 World Bank, *The World Bank Group's Response to Illicit Financial Flows: A Stocktaking*, Board Report No. 104568 (2016) <http://documents.worldbank.org/curated/en/502341468179035132/pdf/104568-BR-SecM2016-0112-IDASecM2016-0071-IFC-SecM2016-00423-MIGA-SecM2016-0044-Box394878B-PUBLIC-disclosed-4-5-16.pdf>

24 United Nations, Economic Commission for Africa, 'Illicit Financial Flows: Report of the High-Level Panel on Illicit Financial Flows from Africa' (Addis Ababa 2015).

25 UNODC, Conceptual Framework for the Statistical Measurement of Illicit Financial Flows (2020).

26 UN FACTI Panel Report (2020) p. 8.

Among the systemic solutions to curb IFFs is to track, trace, recover and return funds that have been stolen due to corruption-related acts and laundered to offshore jurisdiction. The Stolen Assets Recovery Initiative (StAR) launched by the World Bank is one such systemic solution through which these stolen funds are recovered and returned. However, its process remains extremely burdensome and lengthy for requesting countries who are also tasked with demonstrating a difficult threshold to establish the burden of proof. To resolve this, as part of its recommendation 5A, the FACTI panel proposes the creation of a multilateral mediation mechanism to fairly assist countries in resolving difficulties on international asset recovery and return, and in 5B proposes the creation of an escrow account to be managed by regional development banks into which seized funds are deposited pending return. The recommendations have the potential to improve asset recovery and return, and to reduce information asymmetries in establishing the burden of proof, thus making the process transparent and accountable. These recommendations should be aligned to the work currently underway as part of the Common African Position on Asset Recovery (CAPAR); a pan African-led initiative on developing better investigative and prosecutorial capacity across African states by supporting cross border investigations, information sharing and collaboration between states for the speedy and unconditional return of stolen assets.

Corruption and money laundering are both systemic problems and the measures to combat and prevent the two have also been systemic. The systemic solutions proposed under the AU and UN conventions, domestic laws and FATF recommendations have been hindered by operational challenges. Some of these challenges have been as a direct result of the functioning of

the legal and financial system itself. For example, governments of fragile and conflict-affected states (FCAS)²⁷ are less likely to be compliant with international anti-money laundering standards set by the FATF. Their weak supervisory institutions and low staff and technical capacity prevent the authorities from detecting and curbing IFFs resulting from corruption-related activities and money-laundering schemes. In such states, illicit flows due to corruption and money laundering can lead to corrosive effects on their fiscal performance. In addition, power asymmetries influence low anti-corruption efforts. In this context, commercial diplomacy can also play a role in undermining enforcement of national rules over multinational enterprises.

The fiscal consequences of corruption can also impede implementing human rights standards into the government's development policies, protecting the functioning of its institutions, and providing its citizens with a peaceful and secure environment within which to achieve and sustain their development needs. Embedding the principles of the UN FACTI Panel report into fragile and conflict-affected states may support solving this systemic problem. Corruption and money-laundering schemes cannot thrive where institutions are transparent, accountable and of integrity.

Dysfunctional or poor-quality institutions provide an enabling environment to corruption.²⁸ In dealing with such systemic problems, public accountability and governance must form part of the legal framework. The principles of the UN FACTI Panel report can be seen as a subset of measures to strengthen such public accountability, transparency, and integrity. Any legal and financial system that excludes these principles from their governance and regulatory frameworks can be flagged as an enabler for IFFs.

²⁷ <https://www.worldbank.org/en/topic/fragilityconflictviolence/brief/harmonized-list-of-fragile-situations>

²⁸ Kleinfeld P, 'Congo aid scam triggers sector-wide alarm,' *The New Humanitarian* 11 June 2020.

Therefore, in strengthening the definition of IFFs, this study suggests redefining the UNCTAD/UNODC definition to include the political economy as a risk indicator of IFFs. As such, the proposed definition of IFFs takes the entire UNCTAD/UNODC approach and includes the words that follow in bold: *'Financial flows that are illicit in origin, transfer or use; that reflect an exchange of value instead of purely financial transactions; and that cross national borders, **facilitated by and through formal and informal institutions that overlook or have reduced checks on financial accountability, transparency and integrity, and also by those institutions that acquiesce in reduced checks**'.*

The addition to the IFF definition formulated by UNCTAD/UNODC allows for wilful blindness to complicity in dubious and fraudulent activity to form part of the IFF taxonomy resulting from corruption and money laundering. It also allows for liability on the part of professional service providers, especially private bankers, lawyers, and accountants who are enablers of IFF.

This section has complemented the existing knowledge on IFFs from a corruption/money laundering interface to provide further insights into revising the UNCTAD/UNODC definition to consider political economy risk indicators that allow an enabling environment conducive to IFFs to thrive. The proposed revision to the definition is constructed around the principles outlined in UN FACTI Panel report. The next section operationalizes the definition in the context of corruption and money laundering to understand their interlinkages with Africa's institutions and socio-economic realities.

3. Corruption and money laundering challenges in the African context

Corruption is a global problem. In the African context, institutions have been weakened due to several factors, including structural adjustment programs, political capture, and challenges in identifying, assessing and repatriating proceeds of corruption. Some of Africa's legal and judicial systems also lack the capacity to effectively investigate and enforce anti-corruption measures. There is a correlation between corruption and money laundering and low economic and development progress. Such correlation can be observed by comparing the CPI scores of states with their Human Development Index ranking.²⁹ The 2020 HDI Report lists 30 countries³⁰ with low HDI. These countries also featured as corrupt on the 2020 CPI with scores ranging between 12 and 32. Ranking between these CPI scores represents countries that are perceived as more corrupt and with those closer towards 0 as highly corrupt. The nexus between low HDI and corruption has also been established by Akinbode et al. (2020),³¹

Sarabia et al. (2019)³² and Becherair and Tahtane (2017).³³ Countries that ranked as 'more corrupt' with low human development are also lagging towards SDG achievement with scores below 50%. A score of 100 indicates that all SDGs have been achieved.³⁴

Ortega et al. (2016) also suggest that the correlation between corruption and low human development is because corruption is a perverse incentive that distorts investment decisions, forces the use of resources into non-productive rent seeking activities, misallocates capital and erodes government's revenue base with which to finance basic services such as health and education.³⁵ In turn, the citizens are hard pressed with burdensome development loans, rising taxation and costs of living eroding citizens tax morale.³⁶ In the long run, high incidences of corruption reduce the availability of revenue for the state to redistribute towards development needs. In this regard,

29 <http://hdr.undp.org/en/content/latest-human-development-index-rank>

30 In order of ranking from 157–189 Mauritania, Benin, Uganda, Rwanda, Nigeria, Cote d'Ivoire, Tanzania, Madagascar, Lesotho, Djibouti, Togo, Senegal, Sudan, Gambia, Ethiopia, Malawi, DRC, Guinea-Bissau, Liberia, Guinea, Eritrea, Mozambique, Burkina Faso, Sierra Leone, Mali, Burundi, South Sudan, Chad, Central African Republic and Niger. HDI for Somalia unavailable.

31 S Akinbode, J Olabisi, R Adegbite, T Aderemi and A Alawode, Corruption, Government Effectiveness and Human Development in Sub-Saharan Africa (2020) *Journal for the Advancement of Developing Economies*, Vol 9, Issue 1.

32 M Sarabia, F Crecente, MT del Val and M Gimenez, The Human Development Index and the Corruption Perception Index 2013–2017: analysis of social conflict and populism in Europe (2019) *Economic Research*, Vol 33, Issue 1.

33 A Becherair and M Tahtane, The Causality between Corruption and Human Development in MENA Countries: A Panel Data Analysis (2017) *Journal of Economics and Business*, Vol XX, No. 2

34 <https://dashboards.sdginde.org/rankings>

35 B Ortega, A Casquero and J Sanjuan, 'Corruption and Convergence in Human Development: Evidence from 69 Countries During 1990–2012' [2016] *Social Indicators Research*, 127, 691–719.

36 B Jahnke and R Weisser, How does petty corruption affect tax morale in Sub-Saharan Africa? (2019) *European Journal of Political Economy*, Vol 60.

Transparency International has observed that corruption not only lowers the tax-GDP ratio of a country but also causes long-term damage to the economy by detracting investment, distorting tax structures and corroding the tax morality of taxpayers.³⁷ According to Keita and Laurila (2021), this in turn pushes the government to increase the tax burden to mitigate the negative effects of corruption on a country's economy.³⁸ Due to this, a state may become prone to worsening fragility leading to state failure which can be detrimental to peace and security, humanitarian work, development, and the implementation of human rights. The contagion effect of corruption allows it to spread to neighbouring states perpetuating further insecurity and draining development across borders. A discussion on this follows later in subsection 3.3.

As corruption increases, its proceeds are used to penetrate state institutions and create financial institutions conducive to money laundering enabling illicit proceeds to reach the consumer market. Deliberate actions of political actors and professional service providers have been attributed to institutional and cultural conditions that facilitate corruption.³⁹ The high incidence of corruption and money laundering on the continent raise questions about the ways people pursue and exchange wealth and power, and about the ways societies and their economies are governed. Social and state institutional frameworks essential to curb these disguised forms of illicit finance are expected to attain levels of transparency and probity that many countries struggle to achieve while competing in world markets and undergoing political transformation. Hence, a first step

towards understanding corruption and money laundering as part of the IFF taxonomy is to consider the enabling environment that provides the political and economic players with institutionalized paths to legitimize their illicit gains. These are discussed next.

3.1. Enabling environment: legal and financial systems globally and in Africa

Legal and financial systems and their institutions are needed to intervene against political and economic influences that threaten fundamental values and process that sustain business transparency, financial accountability, integrity within the free market and prevent economic plunder. The critical issue per FACTI is that the global financial system, as well as pillars of the global economic system is the underlying problem influencing and shaping the IFFS. The rules are defined by economic and political actors in the global north, namely rules for the banking industry and regulation of the sector. The same is true for every major economic sector/activity and profession—international trade and commerce, accounting, law, tax, shipping.

When such national and international legal and financial systems and their institutions allow political and economic players with institutionalized paths to financial secrecy and to carve out and manipulate access routes into the economy to integrate their illicit gains, they create an enabling environment for corruption and money laundering to filter into the economy unchecked.

³⁷ TI, *Exploring the Relationships between Corruption and Tax Revenue* (2010).

³⁸ K Keita and H Laurila, *Corruption and the Tax Burden: What is the Joint Effect on Total Factor Productivity?* (2021) *Economies* 9: 26.

³⁹ J Hatchard (2020) *supra*, n 6; L Koechlin, *Corruption as an empty Signifier: Politics and Political Order in Africa* (Brill 2013); J M Mbaku, *Corruption in Africa: Causes, Consequences and Cleanups* (Rowman & Littlefield Publishers Inc 2010).

This problem can potentially be resolved by adopting digital tools and technology as part of the country's financial sector (banking industry, microfinance institutes and mobile money) to support monitoring and tracing of financial transactions in real time. Digitalization has provided a powerful opportunity for African governments to improve process efficiency and service delivery, as well as to strengthen engagement with citizens.⁴⁰ In addition, African countries are increasingly utilizing digital technologies in the prevention and detection of corruption. Studies have shown that, for countries that start with a high level of corruption, digitalization is associated with better control of corruption as it reduces human interactions and, in general, can help promote transparency, accountability and citizen participation and facilitate advocacy and closer interaction of government and citizen. For example, adopting digital tools increased indirect tax collection at the border by up to 2 per cent of GDP per year.⁴¹

The use of cash is one way to disguise criminal sources of wealth. It prevents tracing back the source of funds especially when transactions are not documented, or where money mules⁴² are used. This therefore is a governance problem and can be resolved through putting in place transparent and accountable institutions. Relatedly, the 2020 ECA Economic Governance Report identified 5 key institutions⁴³ and 9 legal frameworks⁴⁴ that can collectively strengthen governance systems and prevent IFFs.⁴⁵ These

institutions and laws are necessary towards preventing IFFs. Thus far, only 23 African countries have established the 5 institutions and only one country has put in place all the 9 legal frameworks.

Until these institutions and laws are put in place by all African countries, there is a likelihood that corruption and money laundering could continue to be a risk and filter through economies. In addition, studies have shown that the role of the global offshore system in driving and enabling corruption and money laundering (tax havens and financial secrecy jurisdictions) are a crucial part of the IFFs ecosystems. These are largely present in major financial centres or controlled by former colonial powers.

The 2021 FATF Report also attempts to provide quick solutions for states to implement as they set up and strengthen their institutions and legal framework.⁴⁶ The FATF report suggests adoption of digital technology to fight against money laundering. Among the recommendations it proposes for financial institutions to set up robotic process automation solutions which will help improve investigations of suspicious transactions, screening of names to identify PEPs, the KYC onboarding and recertification. A digital ID scheme will be necessary for this solution to work effectively. Around the world, 1 billion people still struggle to provide adequate ID documents for opening bank accounts or maintaining access to financial services. While

40 IMF Working Paper: Can Digitalization Help Deter Corruption in Africa? (2020), available at: <https://www.elibrary.imf.org/view/journals/001/2020/068/article-A001-en.xml>

41 IMF Fiscal Monitor: Curbing Corruption (April 2019), available at: <https://www.imf.org/en/Publications/FM/Issues/2019/03/18/fiscal-monitor-april-2019>

42 A money mule is someone who transfers or moves illegally acquired money on behalf of someone else. Available at: <https://www.fbi.gov/scams-and-safety/common-scams-and-crimes/money-mules>

43 (1) Policy Environment, (2) Administration of Taxation, (3) Transfer Pricing, (4) Large Taxpayers, and (5) Supreme Audit Institutions.

44 (1) Membership in the forum for transparency and exchange of information for tax purposes, (2) Automatic exchange of information, (3) Beneficial ownership law, (4) Common reporting standards, (5) Convention in mutual administrative assistance in tax matters, (6) Country by country reporting, (7) Transfer pricing legislation, (8) Base erosion and profit shifting multilateral instrument and (9) Multilateral Competent Authority Agreement.

45 ECA, Institutional Architecture to Address Illicit Financial Flows from Africa. A Primer on the Premier Economic Governance Report (2020) Addis Ababa.

46 FATF, 'Opportunities and Challenges of New Technology for AML.CFT' (2021).

digital technology can prove useful to detect IFFs, a wide scale digitalization of people's identity must first be carried out by states.

The legal system and financial institutions can be prone to instances of corruption and money laundering to circulate within the economy.⁴⁷ This can result from the following circumstances: either the civil society lacks capacity, thus demands for accountability and transparency are subdued,⁴⁸ or patron-client networks dominate politics and segments of the economy thereby reducing public accountability and transparency.⁴⁹ Either legitimate markets are declining and illicit ones thrive,⁵⁰ or the courts and security institutions are ineffective while private groups hold extensive power and territory.⁵¹ Either private interests seek influence within state bureaucracies, or powerful government officials seize portions of the economy with impunity.⁵²

Deregulation of the financial sector in Africa following the implementation of structural adjustment programs often presented as the means of achieving growth, and the financial industry in Africa has the potential to channel and provide refuge for IFFs and encouraged a more permissive approach to capital, whatever its source. This led to the growth of offshore financial centres and their use for tax advantages

by licit corporations. This has established patterns that were soon followed by lawbreakers, who began to use offshore financial centres and bank secrecy havens to launder their illicit proceeds.⁵³ Deregulation of the financial sector, therefore, results in jurisdictional arbitrage and bureaucratic morass making it difficult for government authorities to trace through the institutionalized paths within which illicit money is filtered as licit.

Against these legal challenges, it is the function of Financial Intelligence Units (FIUs) to analyse financial activity/transactions to determine which activity/transaction constitutes evidence of potential illegal activity. Almost all African countries have set up FIUs in compliance with international standards dedicated to tackling economic crimes. These countries have also enacted Anti Money Laundering laws to allow for disclosure of information to the FIU and to facilitate the passing of information to it by supervisory authorities in a timely manner. Regional FATF styled African bodies have also been established for Eastern, Western and Central Africa to conduct Mutual Evaluation Review (MER) of their government's efforts in fighting money laundering. MERs generate pressure both within the country and internationally for reform measures to be adopted by African government to step up the fight against money laundering.

47 D van den Bersselaar and S Decker, "No longer at ease" Corruption as an institution in West Africa (2011) *International Journal of Public Administration*; De Sardan, A Moral Economy of Corruption in Africa? (1999) *The Journal of Modern African Studies*, 37,1:25–52; A Heidenheimer, M Johnson & V T LeVine, (eds.) *Political Corruption: A Handbook* (New Brunswick: Transaction Publishers, 1989); S P Schatz, Crude Private Neo-Imperialism: A New Pattern in Africa (1969) *The Journal of Modern African Studies*, 7,4:677–688.

48 For example, in Egypt, Tunisia, Rwanda, Zambia, Malawi, Mozambique and Tanzania. See M Godfrey, 'The Spread of Anti-NGO Measures in Africa' (Freedom House, Special Report 2019) https://freedomhouse.org/report/special-report/2019/spread-anti-ngo-measures-africa-freedoms-under-threat#footnote2_9hau0pp

49 As in Cameroon. See S Miscoiu and L M Kakdeu, 'Authoritarian clientelism: the case of the president's 'creature' in Cameroon' (2021) *Acta Polit* <https://link.springer.com/article/10.1057/s41269-020-00188-y#citeas>

50 For example, in the Sahel region. See UNODC, 'Contribution to the United Nations Integrated Regional Strategy for the Sahel'. https://webcache.googleusercontent.com/search?q=cache:8mpFz67UkboJ:https://www.unodc.org/documents/westandcentralafrica/UNODC_contribution_to_the_UN_Sahel_strategy_English.pdf+&cd=1&hl=en&ct=clnk&gl=uk

51 For example, in Libya, Sierra Leone, Central African Republic. See M Bayer, 'Private military companies and African security governance: Can the revival of a well-known actor change security arrangements in Africa?' (Development and Peace Blog, 25 January 2021) https://www.uni-due.de/inef/blog/private_military_companies_and_african_security_can_the_revival_of_a_well_known_actor_change_security_arrangements_in_africa.php

52 For example, during Kenya's post-independence period, in Nigeria and DRC.

53 P Williams, 'Crime, Illicit Markets and Money Laundering,' in *Managing Global Issues: Lessons Learned*, eds P.J. Simmons and C Jonge Oudrat (Washington, DC: Carnegie Endowment, 2001).

While great strides have been made, for example, by the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) to lead research on identifying vulnerabilities in the financial system that may be exploited for money laundering, MERs have revealed several problems. First, the lack of political will and inadequate legislative frameworks. Second, the role of professionals as gatekeepers further complicating the fight against money laundering. Third, lack of access to and sharing of relevant information, lack of appropriate skills and resources for relevant officials to conceptualize the essential elements of money laundering, and fourth, low rates of investigation, prosecution, conviction, and confiscation of assets obtained from the commission of predicate offences.

Company formation also continues to be exploited to mask ownership of assets or transfer of these assets between persons. The registries check to ensure that the appropriate fields of the company formation forms are completed, but neglect checks and verification with other institutions that can confirm the identity of the parties forming the company. Despite this, most African countries are now implementing the beneficial ownership register that requires disclosure of all the natural persons who ultimately own or control a company so that there is transparency in the identity of parties forming the company.⁵⁴ Hence, jurisdictions that for example permit anyone from anywhere in the world to form a company and become a company director whilst hiding their identity will be constrained.

However, jurisdictions (for example, Cameroon, Kenya, Nigeria, Tanzania, Rwanda) that restrict anonymous companies to be used for onshore trading activities do not necessarily prevent individuals using fronts to register 'legal' or 'regular' companies or creating a network of companies based on family links as a front to launder illicit profits.⁵⁵ This may be seen as a form of systemic money laundering that thrives based on a few actors with whom close trusting bonds are established.⁵⁶ Clearly, while the company's registry is a key regulatory machinery for combatting money laundering and other illicit practices, it has its challenges. Weaknesses in the enforcement of accountability, transparency and integrity within the African legal and financial systems confer on corruption and money laundering a strong elusiveness. Both disguised forms of illicit finance jeopardize institutional credibility, legitimacy, can adversely impact peace and security and undermine development. The function of government should therefore be to impose strict regulatory checks that foster financial accountability, transparency, and integrity within their legal and financial systems.

African countries have to some extent set up institutions dedicated to monitoring and supervising financial flows, such as Financial Intelligence Units (FIUs) as per FATF Recommendations, anti-bribery measures, implementing laws on beneficial ownership and automatic exchange of information. In this regard, 51 African states have set up FIUs, 14 have implemented beneficial ownership laws and 31 have signed up for automatic exchange of information.⁵⁷ Twenty-nine African

54 See: M Harari, A Knobel, M Meinzer and M Palansky, 'Ownership registration of different types of legal structures from an international comparative perspective', (2020) Tax Justice Network; K Rajuili, 'Beneficial ownership reform in Africa: Analysing progress in Ghana, Kenya and Nigeria', (2020) Open Ownership; M Kariuki, K Rajuili and E W Warden, 'Accelerating Beneficial Ownership Transparency in Africa', (2021) Open Government Partnership.

55 D della Porta and A Vannucci, *The Hidden Order of Corruption: An Institutional Approach* (Ashgate 2012); I Amundsen, 'Political Corruption: An Introduction to the Issues' (1999) Chr. Michelsen Institute.

56 The Panama Papers, Angola Leaks, etc. revealed how a well-organized industry facilitates corruption and money laundering.

57 ECA, Economic Governance Report—Primer. Institutional Architecture to Address Illicit Financial Flows from Africa (2020) Addis Ababa.

countries⁵⁸ have also signed up to the EGMONT Group, which provides a platform for the secure exchange of expertise and financial intelligence to FIUs to combat money laundering. The 2020 ECA Economic Governance Report also lists 53 African states with audit institutions to track financial flows. However, such efforts are hampered due to legal barriers in identifying beneficial owners and seeking automatic exchange of information from foreign states, and administrative bureaucracies by which different domestic bodies are responsible in enforcing AML legislation, instituting a system for carrying out customer due diligence and investigating suspicious transactions.

A need for harmonization is therefore critical across the institutions responsible for monitoring IFF risks. While there is no harm in different institutional arrangements supervising financial transactions to detect money laundering schemes, these institutions should leverage their synergies, expertise, and resources to enhance the effectiveness of their supervision of financial institutions. Banks applying the 'tick box' approach to conducting customer due diligence may not have expertise or experience in identifying money laundering risks which can be complemented by another agency. Hence, a move towards an integrated institutional approach for African FIUs may enhance quality of risk management allowing better specialization and technical capacity building on detecting and preventing money laundering. An integrated institutional approach is where the financial supervisor in each financial industry performs both safety and soundness

supervision function and conduct of business regulation for their financial services business. The supervisor then shares the intelligence with other financial sectors to check for any common patterns or red flags as part of completing the supervision process.

Clearly, further steps need to be taken by African states to establish the ECA's recommended institutions and laws needed to guard against IFFs. The regulation and supervision of professional service providers, who have been reported as enablers of IFFs is also necessary in the fight against corruption and money laundering.⁵⁹ This would require developing global and national standards for financial, legal, accounting, and other relevant professionals as per Recommendation 6 on Enablers by the UN FACTI Panel report. FACTI also raises the need for inclusive governance in global standard-setting bodies. In this case of enablers, it means equal participation of developing countries in the industry bodies that set standards for professionals like accountants, lawyers, etc. and for national standards needed for government regulation (not only industry standards but also legal standards with reporting obligations).

The 2021 World Economic Forum's Gatekeeper Taskforce Submission suggests setting behavioural and ethical norms by imposing self-regulation on these professionals,⁶⁰ but Prem Sikka has argued that despite self-regulation, professional service providers for example, lawyers and auditors, have been complicit in enabling IFFs.

58 Algeria, Angola, Benin, Burkina Faso, Cameroon, Cabo Verde, Chad, Congo, Cote d'Ivoire, Egypt, Ethiopia, Gabon, Ghana, Malawi, Mali, Mauritius, Morocco, Namibia, Niger, Nigeria, Senegal, Seychelles, South Africa, Sudan, Tanzania, Togo, Tunisia, Uganda and Zambia.

59 <https://taxjustice.net/topics/enablers-and-intermediaries/>

60 https://webcache.googleusercontent.com/search?q=cache:eNboWCIBLU0J:https://ungass2021.unodc.org/uploads/ungass2021/documents/session1/contributions/WEF-GFC_Gatekeeper_Taskforce_Contribution_for_UNGASS.pdf+&cd=8&hl=en&ct=clnk&gl=uk

BEST PRACTICES FOR REGULATING PROFESSIONAL SERVICES

The 2015 Mbeki Report called for improvements in financial transparency as a firm way to tackle IFFs. Perhaps subjecting all self-regulated professional bodies to government oversight could be a potential avenue for combatting money laundering. For example, the UK is proposing a creation of a new audit profession overseen by a new regulator; Audit, Reporting and Governance Authority (ARGA), which will improve transparency and scrutiny of audit firms. Lessons from this initiative can be used as a benchmark for improving regulation of African based auditors.

3.2. Enabling environment: political, economic, and social realities conducive to IFFs

Corruption and money laundering have a negative impact on development outcomes. They both pose a strong threat to economic development, political stability, good governance, and state legitimacy eroding the trust and confidence the public has in the state's institutions. While political, economic, and social development can be undermined by corruption and money laundering, political, economic, and social actors can also serve as permissive enablers of these illicit proceeds.

POLITICAL ACTORS

Corruption is defined as a transaction or action involving a public official.⁶¹ Political actors can challenge state authority through controlled,

systemic corruption. They forge alliances with functionaries who will deliver state services and goods and these political actors will be bought to tailor rights and regulations that will benefit those who pay for it, and these actors will continue to be bribed or extorted as the state's mere survival may depend on political support by these groups. This allows the political actors to establish institutions and regulations that place them as gatekeepers responsible for ensuring that illicit proceeds go undetected through legitimate channels.⁶² Consequently, as these political actors become powerful, they can organize and instruct criminal networks to threaten and undermine the state's peace and security. There are several examples in West Africa where political leaders have instigated internal conflicts and where corruption has underpinned these conflicts.⁶³

Also, in countries where patronage politics influence political relationships and interactions, these structures allow the proceeds of corruption and money laundering to flow through them. When such illicit proceeds flow through these structures and their gatekeepers during periods of political instability, and the illicit gains are not redistributed to cement political loyalties and relationships, it can have disastrous consequences, potentially destabilizing peace, and security.⁶⁴ Controlled and uncontrolled corruption can also occur between officials and corporations seeking to obtain benefits or procurement contracts. Such corruption complements and reinforces high-level corruption and undermines efforts towards state building, peace, security, and development. Corruption is also carried out by economic and social actors.

61 I Amundsen, 'Political Corruption: An Introduction to the Issues', (1999) Chr. Michelsen Institute, pp. 2, 5.

62 I Amundsen (ed), *Political Corruption in Africa: Extraction and Power Preservation* (Edward Elgar 2020).

63 Transparency International, 'The Missing Element: Addressing corruption through security sector reform in West Africa' (2021) <https://ti-defence.org/publications/security-sector-reform-ssr-west-africa-corruption/>

64 P L Billon, *Corruption and Post-Conflict Peacebuilding* (Routledge 2012).

ECONOMIC ACTORS

With access to the supplier markets, local and global organized economic actors, organized criminals have the power to create illegal supply chains that extend from local production lines to the consumer.⁶⁵ Weak legal and financial institutions; both domestic and global facilitates these economic players with institutionalized paths to financial secrecy and to carve out and manipulate access routes into the economy to integrate their illicit gains. The prevalence of the informal sector, political instability provide cover to their illegal supply chains. It is within these supply chains that corruption proceeds are used to further the development of illicit markets conducive to money laundering.⁶⁶ In the long run, these economic manipulations of the political institutions, legal and financial sectors can lead to potential state failure, where the state is unable to provide any security or services to its people. Relatedly, its geography is controlled by members of organized criminal groups or even terrorist networks eroding the legitimacy of the state.⁶⁷ Such economic environments are unable to distribute wealth equally nor drive innovation, investment, and reinvestment towards development finance. They lead to impoverished societies which then become a breeding ground prone to illicit activities,⁶⁸ which further erodes the state's capacity. These circumstances explain the importance of developing the UNCTAD/UNODC

definition on IFFs as suggested by the study to consider the enabling environment and its risk indicators.

SOCIAL ACTORS

If people come to perceive their officials as generally corrupt, they lose faith in the justness of their institutions and can become hostile to paying taxes, turning to tax avoidance schemes.⁶⁹ Corruption and money laundering activities can also be facilitated by certain social groups or local communities. Particular social groups that become a haven for illicit activity in turn become drivers of corruption and money laundering to spread to neighbouring states as organized criminal networks of gangs and drug cartels use nomads to try and get their products to target markets in and out of the Sahel region.⁷⁰

When these political, economic, and social actors collaborate, they create networks in ways that are often hard to untangle. These networks become part of the economic and political system creating visible economic inequalities with corruption permeating in law enforcement, customs, border patrol and state regulatory agencies. Thus, the centrality of corruption at state levels and the intersection of crime and corruption with the legitimate economy of African states, in particular FCAS create a complex phenomenon of IFFs operating at

65 The illegal supply chain is to be understood through the processes and actors involved in sourcing, value addition and selling products to end consumers. The illicit supply chain of gold for example starts with illegal mining or gold smuggling. Once mined or smuggled, the gold is passed on or sold to local traders and then to intermediaries who organize larger shipments at the national or subregional level. Typically, these shipments are facilitated by internationally connected individuals or groups (organized crime) to destinations in the Persian Gulf, specifically the UAE, where wholesale and retail gold traders sell final products to end consumers. See: UN Industrial Development Organisation, *Curbing Illicit Mercury and Gold Flows in West Africa: Options for a Regional Approach* (2018).

66 F Wiafe-Amoako, *Africa* (54th edn *The World Today Series* 2019); OECD, *Illicit Financial Flows: The Economy of Illicit Trade in West Africa* (2018); P Reuter and E M Truman, *Chasing Dirty Money: The Fight Against Money Laundering* (Institute for International Economics 2004).

67 W Lacher, 'Organised Crime and Conflict in the Sahel-Sahara Region', (2012) Carnegie Endowment for International Peace.

68 H S Kassab and J D Rosen, *Corruption, Institutions, and Fragile States* (Palgrave Macmillan 2019), p. 3.

69 V Gaspar, P Mauro and P Medas, 'Tackling Corruption in Government' (*IMF Blog* 4 April 2019) <https://blogs.imf.org/2019/04/04/tackling-corruption-in-government/>; S H Akdede, 'Corruption and Tax Evasion' (2006) *Dogus Universitesi Dergisi* 7(2).

70 R Alcaro and N Pirozzi, *Transatlantic Security from the Sahel to the Horn of Africa* (IAI 2014); UNODC, 'The Globalisation of Crime: A Transnational Organised Crime Threat Assessment' (2010).

the local, national, and global levels. In addition, we should also consider the global linkages of money laundering including the following:

- international banks in facilitating money laundering. This was documented by studies including the U.S. Financial Crimes Enforcement Center (FinCEN) and Oxfam study on the role of the top 20 global banks in money laundering;
- international crime cartels that African cartels may link to.
- multinational corporations (MNCs) (such as in the extractive sector and telecoms) corruption inducing activities;
- developed country governments promoting favourable policies including deregulatory clauses for their MNCs bilaterally via commercial diplomacy.

3.3. Implications of the enabling environment in undermining peace and security, humanitarian work, development, and human rights

This section maps the implications of the political economy that fosters corruption and money laundering in undermining peace and security, humanitarian work, development, and progress towards achieving human rights. The logic of such an integrated approach towards understanding corruption and money laundering reveal how their intersection can have a devastating impact on national economies and human development. Being symbiotic, the presence of corruption tends to create and reciprocally reinforce the incidence of money laundering. This section will present its argument in two parts. First, by explaining how these symbiotic crimes are often the products

of bad governance. Second, by describing the corruption/money laundering interface from the integrated approach perspective.

THE IFFS AND BAD GOVERNANCE

To contextualize the discussion between the corruption and money laundering nexus, and how it undermines peace, security, development, and human rights, it is important to set out a vignette of the Sahel region to show how politics, governance systems and illicit activity are often interconnected, leading to opportunities for corruption and money laundering.

Efficient states are usually able to control their territories and perform well according to indicators like GDP per capita, the UNDP Human Development Index, Transparency International's Corruption Perception Index and Freedom House's Freedom of the World Report. These states offer high levels of security from political and criminal violence, ensure political freedom and civil liberties, and create environments conducive to the growth of economic opportunity. The rule of law prevails. Judges are independent. Infrastructure is well maintained. Education systems flourish and the health sector serves patients effectively. Efficient states can foster an overall sense of peace and order.

When states fail to achieve the above indicators due to internal antagonisms, harbouring ethnic, religious, or other intercommunal tensions that take a violent turn, such states become an enabling ground for crime. When a state is unable to provide public goods or its ability to provide basic goods and services starts to diminish, when physical infrastructure is deteriorated, schools and hospitals show sign of neglect, GDP per capita starts to fall and the levels of venal corruption start to escalate, the legal system begins to lose legitimacy and the affected citizens; the unemployed youth, the informal sector workers, etc. begin to resort to

organized crime to make ends meet. The 2021 Secretary-General Report on *Promotion of durable peace and sustainable development in Africa* underlined that exclusion from services or the lack of transparency in the delivery of vital, everyday services such as water and sanitation, education, healthcare, and housing, amplifies disparities, and can exacerbate the sense of hopelessness generated by poverty and marginalization, often aggravating grievances or fuelling conflict. The problem of IFFs starts to strongly feature in states whose poor governance provides the opportunistic environment to illegal activities. The Sahel region best amplifies this situation.

The IFFs nuances out of the Sahel region

The Sahel region reflects that politics, governance systems and illicit activity are often interconnected. The extractives sector in the Sahel region can lead to exceptional profits. If well managed, such revenues could be a great opportunity for the economic and social development of the region. However, Sahel states suffer from low human development index, high levels of corruption, weak legal frameworks, and weak law enforcement.⁷¹ The revenues generated from their extractives sector rarely benefit the population, including indigenous people and local communities. Their exploitation is often associated with IFFs since it is a sector most prone to foreign bribery, false invoicing, laundering and cross border smuggling.⁷² Sahel specific conditions such as the vast unpoliced desert expanses, insecurity, violence, difficulties

in governance, lack of air and land surveillance, state and military corruption, poverty, lack of economic opportunities, an increasing informal economy that does not distinguish between the licit and illicit and the rampant financial exclusion alongside the existence of armed groups and criminal entrepreneurs have enabled an environment conducive to IFFs.⁷³

In addition to Sahel specific conditions that are conducive to IFFs, there also is an international dimension. For example, multinational enterprises are invested in extractives and controlled by external financial networks. Numerous systemic factors, related to the region's geography, political and socio-economic conditions enable IFFs. These factors are further exacerbated by weak governments and governance systems, including through clientelism, elite resource capture, corruption, and impunity. The cycles of conflict in this region have created displacement, fragility, and insecurity. They have also opened space for insurgencies and ethnic conflict to develop into violent extremism. It has led to citizens' disenfranchisement from the state, as well as states' inability to provide dividends on citizenship, it has given legitimacy to local powerbrokers, armed groups, and fundamentalist ideologies.⁷⁴ In turn, the paucity of legitimate livelihoods has enhanced the role of illicit economies and the groups enabling them.

These illicit economies are seen as informal livelihoods. When a state fails to provide its citizens with basic services, the citizens then

71 F Natale, *Organised Crime in the Sahel, An Inextricable Puzzle* (2020) Security Distillery; M Micallef, R Farrah and A Bish, *After the Storm: Organised crime across the Sahel-Sahara following upheaval in Libya and Mali* (2019) Global Initiative Against Transnational Organised Crime; J B Yahia, R Fabiani, M Gallien et al., 'Transnational Organised Crime and Political Actors in the Maghreb and Sahel' (2019) *Mediterranean Dialogue Series*, NO. 17 KAS, UNODC, 'Transnational Organised Crime in West Africa: A Threat Assessment' (2013).

72 Mixed Migration Centre, 'Navigating borderlands in the Sahel' (2019) *MMC Research Report*.

73 M Micallef, R Farrah and A Bish, *After the Storm: Organised crime across the Sahel-Sahara following upheaval in Libya and Mali* (2019) Global Initiative Against Transnational Organised Crime; J B Yahia, R Fabiani, M Gallien et al., 'Transnational Organised Crime and Political Actors in the Maghreb and Sahel' (2019) *Mediterranean Dialogue Series*, NO. 17 KAS.

74 Oxford Analytica, 'Sahel dynamics foster illicit economies' (2015) *Expert Briefings*. Also see: <https://www.crisisgroup.org/africa/sahel/burkina-faso/282-reprendre-en-main-la-ruee-vers-lor-au-sahel-central>; <https://www.theafricareport.com/58295/why-much-of-africas-illicit-gold-trade-transits-through-dubai/>; <https://www.courthousenews.com/illegal-gold-mining-funding-armed-groups-in-sahel-interpol/>

resort to any activity that will provide them with sufficient sources of revenue with which to pay for and acquire the services they need. The insecurity in the region alongside poverty has resulted in a population vulnerable to illicit activity. This has had the effect of blurring the lines between licit and illicit due to the expansive nature of the informal economy generating livelihoods for most of the region's citizens, where whole communities may depend on specific forms of illicit trade, for example commodity and fuel smuggling, dealing with contraband goods and illicit minerals. With few legitimate livelihood opportunities within the formal economy, such forms of trade albeit illicit, are subsistence level activities and are considered as informal economic enterprises by those involved. The profits from such trade flow to local powerbrokers, instead of to the central state, depriving the state of revenue.⁷⁵

Further, low levels of financial inclusion are also a major contributor to the enabling environment for IFFs in the Sahel region. Access to the formal banking system is out of reach for the majority of the population.⁷⁶ Money transfer operators are prohibitively expensive. This has created a demand for alternative systems operating outside government regulation, reducing the efficacy of Financial Intelligence Units and increasing the risks of money laundering and terrorist financing. However, it is difficult to point towards verifiable sources from where this data can be obtained to confirm this claim and gather estimates of how much money has flowed through these alternative systems. This is made difficult due to the paradigm created in which the majority of financial transactions are conducted in cash and the hawala system is favoured for

longer-distance or cross-border payments. As a result, significant volumes of transactions are outside of government regulators' reach and cannot be measured for the purposes of international trade or taxation.

The consequences of so much economic activity falling outside of the formal system are manifold. Majorly, the ubiquity of informal cash-transfer systems increases the risks of money laundering and terrorist financing. This becomes a problem for state oversight as money trails cannot be easily tracked. These conditions in the Sahel region have enabled the emergence of opportunistic actors who are now the drivers of IFFs. These actors rely heavily on an interdependent interactive network. These actors can be state officials, armed groups, local communities and multinational corporations. Where certain executive government officers are involved in IFFs, usually there is limited parliamentary or executive oversight and civil society is repressed from demanding accountability.⁷⁷

The differing access to resources by multinational corporations, finance by armed groups and use of discretion by some government officials enable the generation of a variety of illicit revenue streams out of the Sahel region. For example: gold is indigenous to the region. While it plays a pivotal role in the formal economies of Mali and Burkina Faso, gold can readily be diverted into the illicit economy at various points of the supply chain thereby generating IFFs. This happens when the gold is sourced or mined illegally, its transit outside the Sahel is facilitated by armed groups, it is sold across borders for cash or arms to criminal

75 L. Raineri, 'Gold Mining in the Sahara-Sahel: The Political Geography of State making and Unmaking' (2020), *The International Spectator*, Vol. 55, No. 4, 100–117.

76 <https://news.microsoft.com/en-xm/features/unbanked-africa-ripe-for-a-fintech-led-future/>

77 <https://www.crisisgroup.org/africa/sahel/burkina-faso/282-reprendre-en-main-la-ruee-vers-lor-au-sahel-central>; <https://www.theafricareport.com/58295/why-much-of-africas-illicit-gold-trade-transits-through-dubai/>; <https://www.courthousenews.com/illegal-gold-mining-funding-armed-groups-in-sahel-interpol/>

entrepreneurs and its export is facilitated by some custom officers to markets in Dubai where artisanal gold is laundered.⁷⁸ The earnings are then remitted back to the Sahel region with which more arms, for example are purchased or the illegal earnings are integrated into the region's informal economies making it difficult for governments to keep track and control the money in circulation. For this cycle to continue unabated, insecurity is used as the method by which to keep the state weak.

The Sahel extractive-industry supply chains and related financial flows (both licit and illicit) involve a complex web and diverse set of actors. Some of the major players in this illicit economy also operate other legitimate businesses, which they use to launder their ill-gotten gains. IFFs out of the extractives sector are difficult to quantify—since the state seems to be co-opted into the illicit mining. There is also the lack of consistent data on illicit mining. A problematic consequence of gold smuggling is the loss of tax revenues for the region's governments.

The nature of the informal economies in the Sahel region reflects that politics, governance systems and illicit activity are often interconnected, and public officials often wear multiple hats—as public officials performing their public role, but also as private individuals connected to local, community or family networks, and sometimes linked to illegal activity and cross-border trade. Loose lines and affiliations cause the licit and illicit to become blurred. At the same time, the size of the informal financial sector which is outside the ambit of regulation as well as the formal financial sector where regulation is weak, the fragile capacity of customs and borders authorities, and low levels of political commitment to change the status quo enable these activities to persist without penalty or

censure. Key figures in business and government can serve as pivotal nodes in the networks that perpetuate illicit behaviour, initiating or organizing transactions domestically and with international markets, protecting flows from seizure and network members from prosecution, and laundering money through legitimate business or international trade. In the higher ranks, those engaged in the informal economies are free to parlay their IFFs into political power or economic leverage. At the lower levels, corruption may serve as a means of livelihood. The payment of a bribe is perceived as a right of office in a system where civil service salaries are low and often irregular. It is an expected cost of doing business for individuals engaged in both licit and illicit activity, and payments typically increase according to rank.

In this manner, both governance systems and politics become invested in protecting illicit flows out of the region. National governments and the international community have tended to rely heavily on law enforcement, border control and legal strategies as the predominant response to curb IFFs. A range of concerns undermine their effectiveness. What needs to be done for a more effective response is to promote sustainable livelihoods, financial inclusion, and strategies to ensure integrity in the public service—which can complement and enhance the effectiveness of security and law-enforcement measures. Strengthening parliament oversight functions to make government officers more accountable and to support an independent judiciary is emblematic of the fight against IFFs in the Sahel region. Establishing a system for controlling and monitoring extractives resources should also be prioritized on Sahel's political agenda. Sahel countries are yet to make satisfactory progress towards meeting the Extractive Industries

⁷⁸ L. Raineri, 'Gold Mining in the Sahara-Sahel: The Political Geography of State making and Unmaking' (2020), *The International Spectator*, Vol. 55, No. 4, 100–117.

Transparency Initiative (EITI) standards⁷⁹— these are global standards that address good governance of oil, gas and mineral resources subjecting them to a process of transparency and accountability.⁸⁰

UNDERSTANDING CORRUPTION AND MONEY LAUNDERING FROM THE LENS OF AN INTEGRATED APPROACH

The structural adjustment programs created the conditions leading to weakening of state capacities to drive development in developing countries including Sub-Saharan Africa. The linkages between weak states and legal systems, lack of accountability and transparency, insecurity, and the absence of the rule of law in enabling IFFs are established. This, therefore, means that an ecosystem for IFFs is shaped out of insecurity and under development which in turn stunts humanitarian work and progress towards achieving human rights.

Undermining peace and security

Due to the weakened state of peace and security, the Sahel and Sahara region can be more vulnerable to organized crime, which in turn creates fertile ground for corruption and money-laundering activities.

Institutionalized corruption is heavily dependent on political power, which over time creates patronage politics. When proceeds of corruption or money laundering flow through these networks, the funds are used to cement loyalties and relationships with state and non-state criminal actors who then would resort to perpetuating internal conflict and violence to

retain their dominance in political and economic positions. They would stifle any checks and balances that would threaten their dominance and access to illicit funds. A vicious cycle of inequality, instability, insecurity, and social intolerance is thus created.

Undermining humanitarian work

Humanitarian work can create fertile ground for corruption and money laundering. This nexus was previously underexplored because of systemic corruption that fostered lack of transparency and weak governance and regulatory frameworks in the target countries. In FCAS and other highly aid-dependent countries, humanitarian work is usually facilitated through donor aid support. Humanitarian work releases the state from its responsibilities, impeding state building. This in turn can create an enabling environment for the cycle of corruption to thrive resulting in slower growth and greater poverty. In addition, aid can be used to open up investment opportunities for multinational enterprises (MNEs) from donor countries. Commercial diplomacy is also sometimes used for concessions for foreign investors. The pressure on developing countries to re-regulate or to grant concessions to MNEs can be side effects of aid.

Recently, the World Bank has gathered empirical evidence supporting the humanitarian work and corruption nexus.⁸¹ In its 2020 report, the World Bank documented Tanzania as a case study highlighting how high levels of corruption in aid disbursements coincided with sharp increases in bank deposits of the aid money by ruling

⁷⁹ <https://eiti.org/news/statement-from-eiti-board-chair-on-situation-in-mali>

⁸⁰ The EITI Standard requires the disclosure of information along the extractive industry value chain from the point of extraction, to how revenues make their way through the government, and how they benefit the public. By doing so, the EITI seeks to strengthen public and corporate governance, promote understanding of natural resource management, and provide the data to inform reforms for greater transparency and accountability in the extractives sector. <https://eiti.org/About>

⁸¹ World Bank, 'Elite Capture of Foreign Aid; Evidence from Offshore Bank Accounts' (2020).

politicians and their cronies in offshore financial centres. Similar reports by the Global Fund and Associated Press have revealed instances where donor aid has been misused.⁸² When donor aid is misappropriated or diverted from its intended purposes, pre-emptive risk reduction to post-disaster relief, famine and conflict are made vulnerable.

Undermining development

Africa annually loses about \$148 billion to corruption.⁸³ This amount is not indicative of the clandestine and secretive forms of earning corrupt proceeds which remain undocumented and difficult to measure, and which could amount to additional billions. This amount is sufficient to pay for Africa's infrastructure needs that have been estimated at \$93 billion per year.⁸⁴ The UNODC estimates that annually between \$800 billion to \$2 trillion is laundered globally.⁸⁵ Taken together, these estimates show the corrosive effect on mobilizing development finance needed to implement SDGs. For example, the Food and Agriculture Organization (FAO), the International Fund for Agricultural Development (IFAD) and the World Food Programme (WFP) jointly estimate that an average of \$265 billion per year is needed during the period 2016–30 to implement SDG 2 to end hunger, achieve food security and improved nutrition.⁸⁶ The World Health Organization (WHO) estimates the additional annual investment needed to meet SDG 3 on health in low- and middle-income countries at about \$370 billion.⁸⁷ The UN estimates that

\$5 trillion to \$7 trillion per year between 2015 and 2030 is needed to achieve a set of SDGs globally, with the estimates being \$3.3 trillion to \$4.5 trillion per year in developing countries, mainly for basic infrastructure, food security, climate change mitigation and adaptation, health and education.⁸⁸

Undermining human rights

Money laundering is a criminal economic activity whose essential economic function lies in giving illicit funds the legitimacy with which to acquire actual purchasing power usable for consumption, saving, investment or reinvestment. This illegal income is usually concentrated in the hands of a few, and in specific offshore markets with no commensurate redistributive effects. Investments in money transmission businesses, casinos, jewellery and gold exchanges, car dealerships usually do not generate sufficient taxes for governments with which to finance the achievement of human rights. An integrated approach to understanding the corruption/money laundering nexus from the perspective of human rights reveals how these crimes stunt a state towards meeting the development needs of its citizens.

The existence of controlled corruption that makes it possible for some officials to control the economies of their societies and set up institutions to launder their illicit proceeds restricts the ability of a state to then mobilize its own resources to pay for vital economic and social rights and to promote civil liberties.

82 M Jenkins, A Khaghaghordyan, K Rahman et al., 'The costs of corruption during humanitarian crises and mitigation strategies for development agencies', (2020) Chr. Michelsen Institute.

83 UNCTAD (2020) *supra*, n 2, p. 22.

84 World Bank, 'Understanding the Cost of Achieving the Sustainable Development Goals' (2020) Policy Research Working Paper 9146.

85 <https://www.unodc.org/unodc/en/money-laundering/overview.html>

86 FAO, IFAD, and WFP, *Achieving Zero Hunger: the Critical Role of Investments in Social Protection and Agriculture* (Rome: Food and Agriculture Organization 2015).

87 WHO, 'WHO Estimates Costs of Reaching Global Health Targets by 2030', (2017) WHO News Release. <https://www.who.int/news-room/detail/17-07-2017-who-estimates-cost-of-reaching-global-health-targets-by-2030>

88 UNCTAD, *World Investment Report. Investing in the SDGs: An Action Plan* (New York: United Nations 2014).

3.4. Further insights into broadening the IFF definition: corruption and money laundering

The discussion under subsections 3.1-3.3 have highlighted the need to reconsider the fundamental concepts of discretion and deregulation of the financial sector as part of the definition of IFFs. Taken together, discretion, deregulation of the financial sector and the role played by professional service providers can foster an enabling environment within which IFFs can thrive. As such, the proposed definition here of IFFs takes the entire UNCTAD/UNODC approach and provides additional elements as an explanation of the mechanisms and actors involved in IFFs to the words that follow in bold: *'Financial flows that are illicit in origin, transfer or use; that reflect an exchange of value instead of purely financial transactions; and that cross country borders, **facilitated by and through formal and informal institutions that overlook or have reduced checks on financial accountability, transparency and integrity, and also by those institutions that acquiesce in reduced checks***'.

The complexity and extent of the network of perpetrators of corruption and money laundering required the study to adopt an integrated approach. The discursive methodology informing this approach required mapping corruption and money laundering onto a connected landscape of social experiences that enabled these two sources of IFFs to thrive. As such, closely connected constructs of peace and security, development and human rights were considered in unpacking the networks created to filter IFFs when any of these constructs are threatened or made vulnerable. Such an integrated approach allowed the study to draw insights into the supply value chains through which the proceeds of corruption and money laundering are filtered. In understanding the debilitating consequences of corruption and money laundering on peace

and security, humanitarian work, development and human rights, the study has extracted the risk factors that policy and law makers must be aware of in the fight against corruption and money laundering. While a number of international and national strategies that have been put in place to combat corruption and money laundering, assessing their impact in constraining corruption and money laundering will be examined next. Such assessment is done with a focus on evaluating the extent to which these strategies have successfully curbed corruption and money laundering linkages resulting in stronger institutions, sophisticated regulatory frameworks promoting transparency and accountability and a stronger fiscal state facilitating development.

4. International and Africa specific strategies designed to combat corruption and money laundering

An examination of the operational challenges in existing conventions, laws, and policies to fight against corruption and money laundering, especially in the way the measures are implemented in practice are considered under this section. In the past few years leading to the 2020 UNCTAD EDAR and UN FACTI Panel report, the Africa Union, the World Bank, the United Nations, and the Financial Action Task Force (FATF) called for a more integrated approach to corruption and money laundering. In 2003, the African Union Convention on Preventing and Combating Corruption was adopted requiring Member States to take legislative measures that would be necessary to penalize laundering of the proceeds of corruption. The Convention did not consider corruption as a financial or economic crime in isolation but crafted its response to combatting corruption by sanctioning laundering activities intended to conceal or disguise the corruption related proceeds.⁸⁹ In the same year, the United Nations General Assembly adopted the United Nations Convention Against Corruption making it the only legally binding universal anti-corruption instrument with 140 signatories.⁹⁰ Detecting and deterring

money laundering schemes was among the preventive measures outlined in the convention to combat against corruption. Both the AU and UN conventions were concerned about the links between corruption and money laundering and their joint range of corrosive effects on societies, capacity to undermine development and human rights, and threaten peace and security.

Such a corruption/money laundering nexus was emphasized again in the 2007 World Bank Governance and Corruption strategy. The strategy noted that: ***'Corruption and money laundering are a related and self-reinforcing phenomenon'***.⁹¹

Similarly, the United Nations stated: ***'There are important links between corruption and money laundering... A high degree of coordination is thus required to combat both problems and to implement measures that impact on both areas'***.⁹²

The joint UN-World Bank Stolen Assets Recovery Initiative (StAR) launched in 2007 also emphasized the corruption/money laundering interface.⁹³ SDG 16 and particularly target 16.4

⁸⁹ African Union, *African Union Convention on Preventing and Combating Corruption*, 11 July 2003, available at: <https://www.refworld.org/docid/493fe36a2.html>

⁹⁰ UN General Assembly, *United Nations Convention Against Corruption*, 31 October 2003, A/58/422, available at: <https://www.refworld.org/docid/4374b9524.html>

⁹¹ World Bank, 'Strengthening World Bank Group Engagement on Governance and Anticorruption' (2007).

⁹² Mentioned in D Chaikin and J C Sharman, *Corruption and Money Laundering* (Palgrave 2009).

⁹³ <https://star.worldbank.org/>

to **'significantly reduce illicit financial and arms flows, strengthen recovery and return of stolen assets, and combat all forms of organized crime'** refers to closing the regulatory gaps that allow the corrupt to hide and launder their illicit proceeds. SDG 16 also recognizes the nexus between corruption, money laundering and anti-money laundering efforts to combat the two. However, despite the envisaged nexus, African states observe an artificial separation between the two whereby agencies tend to focus too narrowly on their mandate: anticorruption agencies deal with corruption, but not money laundering; anti-money laundering bodies deal with money laundering, but not corruption. This artificial separation breaks the chains in following the money trail of illicit proceeds sourced out of corruption-related activities and money laundering. It is against this background that a discussion of the legal instruments and policy initiatives to combat corruption and money laundering in Africa follows next.

4.1. The international and Africa specific anti-corruption and anti-money laundering related instruments

An international wave of anti-corruption initiatives was inspired by the U.S. Foreign Corrupt Practices Act (FCPA) in 1977. This followed the Watergate scandal, a classic case of money laundering and the use of campaign funds to bribe foreign officials.⁹⁴ The waves of democratization that followed in Africa in the 1990s and the establishment of Transparency International in 1993 also

increased global attention on corrupt activities. In 1990 the UN published a manual explaining how Member States could develop national anti-corruption programmes.⁹⁵ This followed recommendations made by the UN General Assembly on international co-operation on investigating and prosecuting corruption, addressing corrupt practices by enterprises, developing non-criminal measures to combat and training law enforcers.⁹⁶ During this time, Africa's participation in developing and negotiating instruments to combat corruption was restricted to its role within the UN. African initiatives against corruption began with the adoption of the Southern Africa Development Community (SADC) Protocol against Corruption in 2001. This was followed by the Economic Community of West African States (ECOWAS) Protocol on the Fight against Corruption. In 2003, the AU Convention on Preventing and Combatting Corruption was adopted.

The continued legal permissibility in allowing discretion with political actors continues to cultivate an opaque network of patronage across the state influencing IFFs to filter through legitimate institutions. The governance gap that discretion and deregulation create within institutions undermines the effective implementation of these conventions. Currently, the FATF dominates political decision-making for national implementation of anti-corruption and anti-money laundering (AML) guidelines, whether this institution and the Recommendations that it proposes have had a more positive impact when compared with the conventions on curtailing corruption and money laundering in Africa is addressed next.

⁹⁴ A Goldberg, 'The Foreign Corrupt Practices Act and Structural Corruption' (2000) 18 *Boston University International Law Journal* 273.

⁹⁵ *Manual Prepared by the Secretariat: Practical Measures against Corruption, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*, UN Doc A/CONF144/8 (1990)

⁹⁶ GA Res 45/107, UN GAOR, 45th Sess, Agenda Item 100, UN Doc A/RES/45/107.

4.2. The Financial Action Task Force and Africa Styled FATF Regional Bodies

Policy proposals and legal instruments adopted by African governments have independently addressed strategies to combat corruption and money laundering. Donor aid organizations have also been permitted to adopt their own anti-corruption strategies which may or may not take into account the money laundering nexus. As part of combatting money laundering, corruption is viewed as a predicate crime and its instances are confined to controlled systemic corruption at the political level. A comprehensive take towards focusing on the enabling environment that fosters the corruption and money laundering interface creating networks across instability and informal sectors, aided by professional service providers, disguised through the application of discretion, and protected by the deregulated private economic markets have posed considerable challenges in implementing anti-corruption and AML strategies in most African states. This will be discussed shortly after a brief historical glimpse of the FATF and its institutional capacity in leading reform within political and economic markets strengthening them against corruption and money laundering.

The first primary international agreement to counter money laundering was the 1988 UN Vienna Convention Against Illicit Trade in Narcotic Drugs and Psychotropic Substances. Though limited in scope as its name suggests, this Convention set down many of the main elements of the current FATF AML régime. It created the criminal offence of money laundering, established the principle of

confiscating the proceeds of drug crime, which in turn necessitated procedures for tracing and freezing these assets, provided for incremental improvements in mutual legal assistance procedures including the international collection of evidence and extradition. Technical assistance to developing countries on translating the general obligations of the AML régime under the Convention into national laws was provided by the UNODC. This was later followed by the creation of FATF in 1990 that expanded the coverage of money laundering from the Convention's narrow focus on drugs to all other profit-driven crimes.

The FATF is the first international institution founded specifically to counter money laundering. While it grew out of a concern with the war on drugs, echoing the Vienna Convention, the FATF Recommendations also dealt with corruption recognizing that corruption and money laundering were intrinsically linked.⁹⁷ However, the AML regulation is not specific to corruption. It is aimed at stopping a broad class of crime that involves moving large amounts of money. This may well cover grand corruption by political leaders, but it does not factor in uncontrolled and sporadic corruption which may take place on a much smaller scale. This study claims that the AML rules are skewed against the detection of the corrupter.

The AU as part of its Agenda 2063 also assumes the responsibility to fight against corruption and money laundering. However, it does not create a FATF style continental body. The existence of the Eastern and Southern African Anti Money Laundering Group (ESAAMLG), the Intergovernmental Action Group Against Money Laundering (GIABA)⁹⁸ and the Task Force on Money Laundering in

⁹⁷ FATF, 'Corruption: A Reference Guide and Information Note on the Use of the FATF Recommendations to Support the Fight Against Corruption (2010).

⁹⁸ GIABA is made up of the Economic Community of West African States (ECOWAS).

Central Africa (GABAC) provides member states with the opportunity for essential interests to be pursued and for cooperative mechanisms to be developed regionally. The UN FACTI Recommendation 12A which proposes to update the UN Convention against Corruption by way of an implementation review mechanism to improve comprehensiveness, inclusiveness, impartiality, transparency and especially monitoring would benefit from such regional FATF style bodies. Such a review mechanism could result in a database of information specific on the extent to which discretion is exercised in political institutions and the corruption and money laundering instances that result. Political will to support the creation of this database is therefore needed and can be developed under the Common African Position on Asset Recovery (CAPAR). This can facilitate the development of cooperative solutions to be applied regionally and later monitored against the extent to which the resulting illicit problems have been mitigated. However, limited resources and limitations around a state's technical capacity are usually the debilitating factors inhibiting the success of these regional bodies. Further, their focus remains on curbing laundering of illicit proceeds. Their mandate does not extend into observing the enabling environment that fosters IFFs. Enablers such as professional service providers are also not brought under the FATF scope, instead their regulation is left to the independent body that regulates these professionals. Since there is no requirement to exchange information between the FATF body and professional regulators, the latter's efforts to curb money laundering are hindered. These are some of the problems observed; others are discussed next.

4.3. Evaluating the anti-corruption and anti-money laundering strategies

African countries regulation of money laundering is not without challenges.⁹⁹ This results from the advancement of technology and digital business models which can be abused by money launderers, while law enforcement lags in formulating risk assessment and detection tools. Self-regulation of professional service providers sometimes results in their complacency in facilitating corruption and money laundering by providing false accounting to mask the criminal proceeds. Similarly, legal service providers who facilitate clients seeking anonymity when buying property through complex corporate structures, engage in conveyance transactions that involve multiple legal service providers or exploit client accounts to move illicit funds to third parties create these regulatory challenges. In turn, all this impedes the successful implementation of the anti-corruption and AML strategies on the continent. The problem is that the regulatory process is spread across numerous bodies, many of which lack public accountability (especially those that are self-regulated). There is enormous scope for inertia, duplication, waste, and buck-passing.¹⁰⁰ The AML bodies do not have a consistent organizational structure and there is no central place for investigation or prosecution.

In this fragmented system, it is difficult to develop in house capacity to learn and use the knowledge that enables the fight against corruption and AML. No single regulator has an overview of the entire system or comprehensiveness of the issues. Intelligence sharing from the Financial Intelligence Unit (FIU) has historically

⁹⁹ N V Azinge-Egbiri, *Regulating and Combatting Money Laundering and Terrorist Financing: The Law in Emerging Economies* (Taylor & Francis 2021).

¹⁰⁰ J Hatchard (2020), *supra*, n 6.

been limited to the banking sector and others are neglected. Too many lines of communication inevitably add to bureaucracy, political influence, delays, and costs. Many of the regulators in African countries are also poorly resourced. Hence, they are less likely to be compliant with the FATF AML standards. Many African states have also not signed up to the OECD Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI) that can be used by their authorities to exchange information useful for tracking down IFFs. In addition to their taxation duties, revenue authorities also have AML duties. Whether their budget and staffing are adequate is the subject of further empirical research. These factors impede against the successful implementation of AML strategies.

Too many regulatory bodies are too close to the interests that are to be regulated and thus have no independence. African countries also have a poor record in prosecuting money laundering. As a result, they have not been able to successfully recover from the StAR initiative those laundered proceeds caused by theft.

Are there other reasons that can explain why some of the anti-corruption and anti-money laundering strategies are unsuccessful? The study assumes so.

1. Anti-corruption and anti-money laundering strategies have developed as separate international policy priorities and there just did not seem to be much in common between fighting money launderers, eradicating poverty and promoting peace and security. Some of these FATF AML Recommendations were applied as a result of escalation of pressure and perhaps the threat of sanctions for those who did not comply in a timely

fashion.¹⁰¹ Consequently, some countries rushed through legislation to avoid these pressures and threats and thereafter retreated in implementing the Recommendations due to lack of political will, funds and technical know-how.

2. AML strategies are largely domestic in nature and cover depository institutions. In other African countries, AML strategies are part of the highly structured international régime set out as part of the FATF Recommendations that regulate a wide variety of institutions. Of the institutions set out, the informal sector is not viewed as part of the financial system. Uncontrolled and sporadic corruption is most likely to occur, foster and be facilitated through the informal sector. Leaving out the informal sector as a risk indicator of corruption and money laundering that can be addressed through AML strategies explains why the strategies set out under FATF remain partially enforced.
3. Informal and unofficially conducted cash transfers through the local hawala¹⁰² networks are impediments to AML controls. Such transfers are usually not fully reported, officially recorded, measured, or taxed. Where government regulatory capacity is constrained due to lack of funds, technical personnel, weak governance, corruption and instability, its financial sector is pushed towards informality operating almost outside of government oversight, either through the black market, hawala networks or unsupervised remitters. This situation provides perfect conditions for money-laundering schemes to go undetected. Illegitimate and legitimate economies then begin to intersect and multiple types of IFFs begin to find harbour in such countries.

¹⁰¹ R F Pol, 'Anti-money laundering: The world's least effective policy experiment? Together, we can fix it, (2018) Policy Design and Practice, Vol 3, Issue 1.

¹⁰² An Arabic word for a particular international underground banking system.

Consequently, even with the FATF standards, compliance becomes difficult. Hence, Africa's cash-based societies remain a challenge to fully implementing AML strategies.

4. Most African countries have laws targeting predicate crimes that make it necessary to launder proceeds. These predicate crimes cover drug trafficking-, blue- and white-collar crimes, bribery and corruption, and terrorism. These crimes differ in terms of their reliance on cash, the quantities of money involved, the severity of their negative impact on peace and security, development, humanitarian work and human rights. The FATF AML recommendations provide general standards relating to customer due diligence, reporting, regulation and supervision, investigation, prosecution, and sanctions. While these may aid preventing these predicate crimes, they are not strategic towards their enforcement. For example, the standards on regulation should be tailor-made to suit the different contexts within which these predicate crimes can occur.

Since no credible estimates are available as to the volume of money laundering, the vagueness of available estimates cannot be used as a measure to judge the effectiveness of the global AML strategies. The vagueness of current estimates provided has to do with disagreements over how to conceptualize money laundering and around weaknesses in techniques used to quantify it.¹⁰³ Thus, the strategies aim to reduce the activities that generate corrupt proceeds and the money

to be laundered. In line with this, the UN FACTI Panel's approach to a principle-based financial system which seeks to preserve the integrity of the core financial system introduces a different type of AML goal, it justifies holding professional service providers accountable towards reducing activities that facilitate corruption and consequently generate money to be laundered. This input may contribute to strengthening AML strategies as the key enablers are brought under the FATF jurisdiction.

Not all money laundering transactions involve all three distinct phases (placement, layering and integration), some may indeed involve more. The diversity of forms that money laundering can take, the participants involved, and the settings determine the suitable method(s) to be used.

FATF requires financial institutions to follow a series of Customer Due Diligence (CDD) and sometimes an Enhanced Due Diligence (EDD) checks. These Know Your Customer (KYC) rules aid banks to identify who their customer is with evidence and to file a suspicious activity report (SAR) where specific red flags are identified. Banks are only obligated to file a report not to prevent transactions or close accounts. The SAR is then followed up by law enforcement, leading to asset freezes, arrests and potentially even jail time. But can all banks meet the compliance costs for KYC, CDD and EDD? This is a potential regulatory weakness in the FATF Recommendations. Perhaps the integrated institutional approach proposed under section 3.1 could partly resolve this problem.

¹⁰³ This is because money laundering practices change over time. Digital technology also adds layers of disguise to illicit finance. FinTech platforms can be used for money laundering purposes, crowdfunding platforms and the use of virtual currencies have also been identified as facilitating ML. Therefore, it is not quite possible to have a comprehensive estimate of how much in money laundering flows through formal and informal financial institutions. Conceptualising ML is also context specific. The definition of money laundering has not been harmonized. Individual countries place their own particular focus on predicate offences which other countries may not consider as part of their law on predicate offences, esp. if those states are not members of the FATF (e.g., Burundi, Eritrea, Mauritania, Sao Tome and Principe and South Sudan). Nevertheless, in estimating ML, the Walker and Unger models are usually applied in EU countries and I would assume African states too. However, these models have been criticized for lacking in empirical foundation and their inability to distinguish between domestic and international ML. Read more here: J Walker and B Unger, 'Measuring global money laundering: The walker gravity model', [2009] Rev. *Law Econ* 5, 821–853.

MONEY LAUNDERING THROUGH CASH INTENSIVE, LEGAL BUSINESSES

The anti-corruption and AML strategies are also weak towards countenancing the following social experiences. Illicit money can be added to the cash revenues of a legitimate business enterprise, particularly those that are already cash intensive, such as restaurants and bars in most African countries. The extra money is added to the till. The cost for this laundering method is the tax paid on the income. With companies whose transactions are better documented, invoices can be manipulated to stimulate legitimacy.

For example, a used car dealership may offer walk-in customers a discount for paying cash, then report the original sale price on the invoice, thus justifying the existence of the extra illicit cash. In Kenya, a risk assessment study conducted by the Financial Reporting Centre (FRC) revealed that second-hand car ventures cut deals worth millions of shillings in cash without questioning the buyer's source of income.¹⁰⁴ The findings highlighted that drug dealers and fraudsters relied on this industry to launder their illicit proceeds. The used car industry is currently unregulated and does not fall within the Kenyan Proceeds of Crime and Anti-Money Laundering Act that requires financial and designated non-financial institutions and professions to report any suspicious or unusual transactions to the FRC. This gap in regulation is currently under review by the FRC. Benin serves as another good case illustration. Benin is West Africa's centre of regional re-export hub across various industries and is therefore vulnerable to money laundering. A 2015 International Narcotics Control Strategy Report (INCSR) by the U.S. Department of State revealed that particular money laundering cases linked to Benin included the proceeds of narcotics trafficking being commingled with the sale of imported used cars primarily in neighbouring countries.¹⁰⁵

Finally, functional specialization has resulted in the failure of agencies to appreciate the corruption/money laundering interface. Financial Intelligence Units (FIUs) see corruption outside their area of responsibility and anti-corruption bodies regard money laundering in the same way. In going forward, African governments should create a continent-wide database of existing cases that provide detailed description of the amount, methods and predicate crimes involved that represent the existence and mechanics of the market for corruption and money laundering services. Policy and law makers need this database as a first step towards understanding

whether the African markets can incorporate more opportunistic modes of converting the illicit proceeds into forms that cannot be traced. Anti-corruption measures should specifically respond to the different categories of corruption¹⁰⁶ and patterns of corruption¹⁰⁷ as each of these will require different strategic and programmatic approaches. Most of the national anti-corruption measures do not outline different strategic and programmatic approaches to respond to the different types of corruption. The capacity of the FIUs to create this database will depend on the nature of the intelligence that can be availed to the public and the financial costs involved.

¹⁰⁴ <https://www.businessdailyafrica.com/bd/economy/state-to-seek-identity-income-of-used-car-buyers-3318736>

¹⁰⁵ <https://2009-2017.state.gov/j/inl/rls/nrcrpt/2015/supplemental/239144.htm>

¹⁰⁶ Bribery, embezzlement/misappropriation/facilitation payment, fraud, patronage/clientelism/nepotism, rent seeking, conflict of interest, absenteeism, abuse of power/influence (See Pearsall (2002), McLean and McMillan (2003) and Transparency International (2009)).

¹⁰⁷ Political versus bureaucratic/administrative; grand versus petty; controlled versus uncontrolled; systemic/endemic versus sporadic. (See Pearsall (2002), McLean and McMillan (2003) and Transparency International (2009)).

Such capacity and move towards creating the database are hampered due to the lack of political will at the highest levels of government. This lack of political will has also been flagged by the African Peer Review Mechanism (APRM). The APRM produces country review reports addressing issues across different dimensions of governance and individual countries with a particular focus on how anti-corruption, transparency and accountability measures are addressed across national governance mechanisms and institutions. In its country review reports, the APRM has acknowledged

the importance of the fight against corruption and identified not only knowledge, technical and financial capacity constraints within national institutions responsible for investigating and prosecuting corruption but also the lack of political will to enforce measures against curbing corruption.¹⁰⁸ Sixteen APRM reports also caution against the lack of independence of most state institutions charged with fighting corruption.¹⁰⁹ As a measure to counter this weakness, the APRM recommends strengthening civil society to advocate for vertical accountability.

¹⁰⁸ R Lekalake, Bridging the gap between commitment and capacity. Corruption, transparency and accountability in the African Peer Review Mechanism (APRM), EISA Occasional Paper AP6 (2016).

¹⁰⁹ Various African Peer Review Mechanism Country Review Reports from 2005 to 2013 available on its website.

5. Conclusion and recommendations

Corruption and money laundering cause serious systemic economic, institutional, and social costs, and when they hit financial markets, affect financial supervision, accountability, transparency and integrity. These two forms of IFFs seriously distort the competitive modern regulated markets which in turn creates and crystallize asymmetric political and business environments. An integrated approach to understanding the corruption and money laundering interface explains how the two erode democratic institutions, create social inequality, and threaten security and fundamental human rights. These disguised forms of illicit finance are grounded on the size of the government's role in the economy and on the discretion of public officials within the state's regulatory framework. To resolve these risk indicators that permit IFFs to thrive, African governments must replace discretion of public officials and control deregulation of the financial sector with UN FACTI principles.

Removing discretion and controlling deregulation of the financial sector in so far as financial activities are concerned will foster greater transparency, stronger institutions, enhanced accountability, and more cooperation at the national, regional and global level with people contributing towards financial integrity in all aspects of their lives. This is because decision-making around financial activities and transactions will be subject to standards and not discretion.

While the UN FACTI Panel report proposes the formation of legitimate financial rules and standards in conducting financial activities, it does not set out what these rules and standards ought to be. It instead speaks of a Global Pact for financial integrity for sustainable development.¹¹⁰ Such financial integrity is to be achieved by states agreeing to take comprehensive action to foster and strengthen financial integrity for sustainable development. This study proposes the removal of discretion by public officials on one hand, and on the other, controlling professional service providers and regulating all financial activities and transactions. Along this, the following recommendations are also made.

- 1. To designate the Economic Commission for Africa (ECA) to recommend and support a common African position on strengthening the anti-corruption and AML regulatory system established under the FATF.** ECA efforts to be complemented by the African Peer Review Mechanism (APRM) under whose auspices Member States will suggest measures to be taken to reduce fragmentation and sector-specific concentration in combatting corruption and money laundering. Based on the suggestions, **ECA to support technical assistance to the FATF style regional bodies in Africa (ESAAMLG, GIABA and GABAC) on sharing intelligence, resources, and cross-border co-operation from across the public and private sectors**

¹¹⁰ UN FACTI, executive summary v2.

to tackle money laundering. This will result in removing information asymmetries that present obstacles to locating IFFs earned out of bribes and corrupt activities. This recommendation resonates with UN FACTI Panel Recommendation 11C: Designate an entity to collect and disseminate data on enforcement of money laundering standards.

2. The political economy conducive to IFFs often has global links. The measures undertaken in African countries have not been conducive to combatting corruption and money laundering in so far as high-ranking officials are concerned. All too often, the tendency is to bury illicit practices and shield selected economic and political elites from scrutiny and protect their economic interests. This would require strengthening coordination between national, regional, continental, and global agencies that deal with combatting corruption and money laundering, which in turn will support the recovery process of the illicit funds. Such coordination can be achieved by African States aligning their national efforts towards the recovery and return of the money stolen due to corruption-related activities and money laundering with the Common African Position on Asset Recovery (CAPAR) so that such shielding practices can be identified, and illicit proceeds seized. However, this may not entirely undo the problem of political interference or vested interests. As such **an African led investigative group comprising of CSOs, investigative journalists, forensic accountants, lawyers, academics, and state officers working to combat corruption at national levels should be formed to investigate, and support CAPAR on recovering stolen funds from the continent.** Since StAR does not investigate cases but only serves as an intermediary to help return assets, the African led investigative

group can also support strengthening StAR initiatives to support the recovery of stolen African funds.

3. **Strengthening the capacity of the national anti-corruption bodies to do research on the prevalent national forms of corruption,** including in collaboration with other international organizations, with the strategic aim of improving the effectiveness of capacity building and technical assistance towards investigating the diverse forms of corruption and money-laundering schemes. Since corruption is transnational where the illicit proceeds can be gained in one state and transferred to another, **setting up a continental anti-corruption and anti-money laundering judicial institution where enablers and recipients of these forms of IFF can be prosecuted** is one way of countering the lack of political will at national levels to curb corruption and money laundering. Such a judicial institution resonates with the FACTI Panel Recommendation 10C. The UN FACTI Recommendation 1B proposes that the international community should develop and agree on common international standards for settlements in cross-border corruption cases. The African position on this recommendation should advocate for the involvement of APRM to guide on the development of these standards and practices that will also be relied on by national anti-corruption bodies to do research and investigate corruption and money-laundering schemes. Involving the APRM in this process may contribute to the political will towards creating the legal foundation for an inclusive intergovernmental body on corruption and money laundering, which is also recommended under UN FACTI Recommendation 14C.
4. The ease of doing business that facilitates company formation may encourage formation of companies for illicit purposes. The ease

with which a company can be established is frequently exploited to set apparently legitimate companies both within Africa and offshore, but which are primarily a mechanism for laundering illicit funds. Further research is required in order to suggest protective checks and oversight in company formation. Creating a centralized registry for holding beneficial ownership information on all legal vehicles may not suffice. **Introducing a legal requirement of identity verification to be issued by a government authority confirming the individual(s) incorporating the company has no previous criminal records, is tax compliant, has an authentic taxpayer's identification number, and has not been flagged for suspicious transactions is one way to safeguard against the risk of forming companies for illicit purposes.** While this may delay company formation when such verification is sought, implementing technology solutions such as machine learning and data analytics can help to swiftly provide this data.

5. Virtually all high-end money laundering schemes, and several cash-based ones, are facilitated by the abuse of legitimate processes and services. Accounting, legal professionals, and estate agents, could be criminally exploited where their complicity and negligence are established in facilitating IFFs. This small minority of people can pose a very significant threat. They can act as intermediaries and use their skills, knowledge, and abilities to draft documentation, disseminate funds, and allow highly complex structures to be created that move and store large amounts of criminal money and conceal ownership effectively. Hence, applying punitive sanctions against professional service providers, especially private bankers, lawyers, and accountants who facilitate IFFs is an important step.

Based on FACTI Panel's Recommendation 6B, the recommendation made here is to redesign and supervise the regulatory architecture of professional service providers. The FACTI Panel report claims that self-regulation does not work, therefore, there should be **one well-resourced national supervisory body that regulates these professionals and formulates professional standards guiding these professionals on how to co-operate with financial intelligence units without breaching their duty of confidentiality to their clients.**

This body should have its own investigative capacity. All regulatory bodies are susceptible to 'capture' by the very interests that are to be regulated. This often happens in the guise of claims that 'we need people with technical knowledge' and before long their worldviews become naturalized within the regulatory bodies. To be effective, the supervisory body proposed can appoint a team of compliance auditors to oversee the regulator of the professional service providers by asking questions about policies and practices and requiring professionals to keep a database of their clients' origins and sources of resources over a specified threshold and share the data with the FIU.

6. **Under the auspices of APRM, African governments should conduct a national risk assessment of corruption and money laundering to build on their understanding of these threats arising internally as well as being facilitated through international institutions.** Such risk assessment will provide the foundation for the government and private sector to tackle corruption and the resultant ML. It will lead to discovery of which financial actors remain outside the purview of regulation, such as crypto asset exchange providers and custodian wallet providers emerging out of the digitized economy. It will reveal what the governments need to do to

enhance their domestic response to economic crimes and address the international dimensions to money laundering which can be restricted by domestic reforms.

7. African governments should create a continent-wide database of existing cases that provide detailed description of the amount, methods and predicate crimes involved that represent the existence and mechanics of the market for corruption and money laundering services. Policy and law makers need this database as a first step towards understanding whether the African markets can incorporate more opportunistic modes of converting the illicit proceeds into forms that cannot be traced. Anti-corruption measures should specifically respond to the different categories of corruption and patterns of corruption as each of these will require different strategic and programmatic approaches. Most of the national anti-corruption measures do not outline different strategic and programmatic approaches to respond to the different types of corruption. The capacity of the FIUs to create this database will depend on the nature of the intelligence that can be availed to the public and the financial costs involved.

8. Finally, the AU can support the setting up of a Continental Anti-Corruption and Money Laundering Coordination Centre, hosted in Addis Ababa where specialist African law enforcement officers are brought together from their multiple domestic agencies to tackle allegations of grand corruption and money laundering. Through this centre, the AU could:

- Improve shared understanding of the nature, drivers and challenges of tackling domestic, regional and offshore corruption and money-laundering schemes that flow through and into African countries.

- Coordinate and enable a more strategic African response at the global level, including via the FATF and UN FACTI Panel as part of its recommendation 10A.
- Influence policy and technical knowledge exchange with host governments and wider stakeholders to tackle corruption and money laundering.
- Build an effective African network to tackle corruption and money laundering impacting on African interests, and on poverty in African countries (by harmonizing at the regional level policy and legal approaches to combatting corruption and money laundering). African regional economic blocs should create robust and coordinated national oversight mechanisms that efficiently reinforce financial integrity as part of national financial institutions requiring these institutions to publish reviews evaluating their performances in detecting suspicious transactions and listing transaction/financial flows of specific thresholds across the regional blocs. The groundwork for the preparation of such mechanism should be facilitated through the Africa Peer Review Mechanism.
- Raise global standards and norms to tackle corruption and money laundering both bilaterally and multilaterally.

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