

An analysis of organised crime groups as participants in the licit economy

M Fourie



orcid.org/0000-0003-1313-1723

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Supervisor: Dr P Steenkamp

Co-Supervisor: Mrs J McIntyre

Co-Supervisor: Adv CRR Oellermann

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Student number: 28484193

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KEY TERMS

Illicit cigarette trade; illicit wildlife trade; infiltration methods; legal economy; organised crime groups.

PREFACE

This study follows the article format. Three separate articles (Chapters 3 to 5) were compiled and submitted to journals.

The details, at time of submission, are as follows:

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- Article 2: was submitted to South African Crime Quarterly.
- Article 3: was submitted to South African Crime Quarterly.

These articles were co-authored by this study's supervisor and two co-supervisors, who provided research advice and guidance. These individuals are affiliated with the North-West University's Faculty of Economic and Management Sciences, specifically the School of Accounting. The co-authors are aware that all three articles form part of this dissertation and will be submitted for degree purposes.

ABSTRACT

Economic prosperity provides opportunities for expansion and collaboration between illicit and illicit market participants. Thriving market conditions offer prospects for organised crime groups to pursue relationships with (or infiltrate) licit markets, thereby disguising and entrenching themselves in the legal economy.

The possibility of crime infecting the legal economy is increased in countries such as South Africa, due to ineffective or deficient legal frameworks aimed at combatting and prosecuting organised crime. This study, therefore, aims to examine how the infiltration of evolving licit markets can be restricted through a critical analysis of the infiltration of identified licit markets by organised crime groups to enable substantiated outcomes rendered from these researched markets to guide and inform regulatory reform efforts.

This study is divided into three articles, each contributing towards the overarching objective of safeguarding licit markets from infiltration by organised crime groups. The first article examines infiltration behaviour by questioning the underlying drivers and methods. An investigation is done of methods and drivers for infiltration of the licit market by organised crime groups. This qualitative study critically analyses different methods of classification in order to identify and describe structural or organisational forms of OCGs.

The remaining articles examine markets with notorious links to criminality, thus labelled as grey markets where the licit and illicit are interwoven. The South African tobacco trade, specifically the related illicit cigarette trade is investigated in article 2. An examination of the current scale and nature of the ICT is made together with an evaluation of attempts to combat ICT in South Africa. This qualitative study is performed in the form of a critical analysis. Various approaches were utilised to explore possible explanations for the success of the South African ICT. These include *inter alia* social, economic, psychological and political factors, as well as law enforcement capability. These approaches are considered, alongside international best practice in order to develop fit-for-purpose recommendations that address identified weaknesses in the current regulatory approach.

Similarly, the South African illicit wildlife trade, in particular the illicit abalone and cycad markets, is studied in article 3. The threat of criminal coordination in illicit South African wildlife markets are investigated and a proposal for an indicator-based model which

contributes towards the detection of a possible escalation in respect to this threat, is forwarded.

Regulatory initiatives need to account for infiltration behaviour and its intricacies if it wants to provide effective protection against criminal infestations. A one-size-fits-all approach to organised crime deterrence is predestined to fail as it neglects to account for the idiosyncrasies in licit markets, particularly the more vulnerable grey markets. Consequently, this study emphasises that a grey market's context needs to be understood, therefore acknowledgment of the diverse nature of these markets is required. Individual analysis of markets enables tailored interventions that can be implemented. Thereby, the virus of criminality can be halted or cut-off from further infiltrating the broader (licit) society.

LIST OF ABBREVIATIONS

ACAMS:	Association of Certified Anti-Money Laundering Specialists
ACT:	Air-cured Tobacco
AUD:	Australian Dollar
BATSA:	British American Tobacco South Africa
CEO:	Chief Executive Officer
CITES:	Convention on International Trade in Endangered Species of Wild Fauna and Flora
DFFE:	Department of Environment, Forestry and Fisheries
EGMS:	Excisable Goods Management System
EIA:	Environmental Investigation Agency
FBI:	Federal Bureau of Investigations
FCT:	Flu-cured Tobacco
GDP:	Gross Domestic Product
GIATOC:	Global Initiative Against Transnational Organized Crime
ICT:	Illicit Cigarette Trade
INTERPOL:	The International Criminal Police Organization
IRA:	Islamic Republic of Afghanistan
ITT:	Illicit Tobacco Trade
ITT Protocol:	Protocol to Eliminate Illicit Trade in Tobacco Products
IUCN:	International Union for Conservation of Nature
IWT:	Illicit Wildlife Trade
KYC:	Know Your Customer
OCG:	Organised Crime Group
UNCTAD:	United Nations Conference on Trade and Development
UNODC:	United Nations Office on Drugs and Crime

USD:	United States Dollar
RUSI:	Royal United Services Institute
SACU:	Southern Africa Customs Union
SANBI:	South African National Biodiversity Institute
SARS:	South African Revenue Service
SFW:	The Foundation for a Smoke-Free World
TPC Act:	Tobacco Products Control Act 83 of 1993
VAT:	Value-Added Tax
VLRC:	The Victorian Law Reform Commission
WBG:	World Bank Group
WEF:	World Economic Forum
WGC:	World Gold Council
WHO:	World Health Organisation
WHO FCTC:	World Health Organisation's Framework Convention on Tobacco Control
WWF:	World Wildlife Fund
ZAR:	South African Rand

TABLE OF CONTENTS

ACKNOWLEDGEMENTS	II
KEY TERMS.....	II
PREFACE	III
ABSTRACT	IV
LIST OF ABBREVIATIONS	VI
LIST OF TABLES	IX
LIST OF FIGURES	IX
 CHAPTER 1: PURPOSE AND SCOPE OF STUDY	 1
 CHAPTER 2: RESEARCH PHILOSOPHICAL ASSUMPTIONS, APPROACH AND METHODOLOGY	 12
 CHAPTER 3: ARTICLE 1.....	 18
EXPLORING INFILTRATION BEHAVIOUR BY ORGANISED CRIME GROUPS.....	19
 CHAPTER 4 (ARTICLE 2)	 42
THE SOUTH AFRICAN ILLICIT CIGARETTE TRADE.....	43
 CHAPTER 5 (ARTICLE 3)	 69
TARGETING WILDLIFE TRAFFICKING	70
 CHAPTER 6: CONCLUSION	 93
 REFERENCE LIST	 101
 ANNEXURE A: DECLARATION OF LANGUAGE EDITING.....	 109
ANNEXURE B: AUTHOR GUIDELINES – ARTICLE 1	110
ANNEXURE C: AUTHOR GUIDELINES – ARTICLE 2 AND 3	120
ANNEXURE D: REFERENCE LIST: ARTICLE 2	130
ANNEXURE E: REFERENCE LIST: ARTICLE 3	134

LIST OF TABLES

Article 1 - Table I: Summary of infiltration methods	32
Article 2 - Table 1: Evaluation of specific South African tobacco control practices.....	55
Article 3 - Table 1: Indicator framework.....	78

LIST OF FIGURES

Article 1

Figure 1: Hierarchy structure	22
Figure 2: Network structure	23

Article 2

Figure 1: ITT growth comparison.....	49
--------------------------------------	----

Article 3

Figure 1: IWT aspects that attract OCGs.....	77
Figure 2: Summary of coordination indicators: Abalone	78
Figure 3: Approximate cycad distribution based on trade reported to CITES	83
Figure 4: Summary of coordination indicators: Cycads	84

Chapter 6

Figure 1: Dissertation layout - Addressing the infiltration threat.....	94
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CHAPTER 1: PURPOSE AND SCOPE OF STUDY

1.1 Introduction

Illicit trade is any practise or conduct prohibited by law, which relates to production, shipment, receipt, possession, distribution, sale or purchase, and any practise or conduct intended to facilitate such activity (The World Health Organisation (WHO), 2013:6). The illicit (interchangeably used with “illegal”) trade is widespread; its economic output exceeds Brazil, Italy, and Canada (World Economic Forum (WEF), 2019). In South Africa, the illicit tax-evading cigarette market – a packet sold for as low as ZAR 10.00 per pack – accounts for more than a third of all cigarettes sold. This illicit trade resulted in an estimated loss of excise tax, valued between ZAR 7 billion and ZAR 8 billion, in 2020 (West, 2020).

The world markets consist of both the illicit and licit trade (WHO, 2013:6). Often these contribute or interact with one another in some manner. Additionally, convergence between different illicit markets is also possible due to globalisation that coincides with developments in the value or supply chain, such as access to new trading routes (USAid: Bureau for Africa, 2020:1). Globalisation has created favourable conditions, such as open borders and advancements in technology, which are beneficial for the world markets (Forest, 2021:1; Standing, 2003:3). This is also true for illicit economic participants, who flourish amid these market conditions that offer new opportunities for expansion and collaboration between its participants – both the licit and illicit market (Forest, 2021:1).

The United Nations Office on Drugs and Crime (UNODC) (2004) defines organised crime as: “A structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences ..., in order to obtain, directly or indirectly, a financial or other material benefits”. Kleemans and Soudijn (2017:4) focused on continuity and described organised crime as criminality “that involves repeated decisions and continuing interaction between several offenders”.

Nevertheless, defining “organised crime” remains a complex and somewhat contentious matter as many differing and often opposing formulations exist. These interpretations have varying criteria, including the requirement of hierarchical structure, the minimum number of participants, the degree of coordination and the duration of the arrangement (Aslett, 2018:17).

1.1.1 Organised crime groups

1.1.1.1 Defining organised crime groups

The Federal Bureau of Investigation (FBI) (2021) defines organised crime groups (OCGs) as “self-perpetuating associations of individuals who operate, wholly or in part, by illegal means and irrespective of geography”. OCGs are mostly inward-focused and protect their activities through various pursuits and actions, including corruption, complex communication mechanisms, violence, and the exploitation of national boundaries through apt organisational structuring (FBI, 2021).

These groups are attracted to environments with porous borders, established infrastructure, and effective systems for banking and communication (Standing, 2003:52). Countries, such as South Africa, with ineffective or deficient legal frameworks to combat and prosecute organised crime, are also attractive due to the low perceived risk of prosecution (Van der Linde, 2020:190-192). These OCGs, often consisting of network-like structures, drive the illicit trade, “posing a substantial threat to national security and public safety” (Royal United Services Institute, (RUSI), 2021).

The structures of OCGs are diverse and often distinct, as it reflects the group’s unique supply chains and connections. Standing (2003:13) states that the four most prevalent structures are hierarchy, network, market, and clan and included a fifth, namely a syndicate. Irrespective of the definition or structure applicable, organised crime can be viewed as opportunistic, exploiting “opportunities globalisation has inadvertently provided” (Standing 2003).

1.1.1.2 The participation of OCGs in markets

The relationship or interaction between legal and illegal markets are often mutually beneficial. Legal businesses act as “the principal beneficiaries and architects”, whilst illegal businesses “merely play the role of the service provider” – thus supplying creative solutions. Alternatively, the illicit enterprise may benefit from the legal entity’s status, with its legal operations providing a method for laundering illicit proceeds (Ruggiero, 1997:28). For example, an organised crime group (OCG) launders its money through a legally operated restaurant; in turn, the restaurant receives the OCG’s patronage.

Collaboration is often due to success in the illicit market, necessitating the usage or exploitation of an extensive supply chain that overlaps with the legitimate market (Goga, 2015). To exploit these opportunities, convergence must occur, whether by using extortion or other tactics. Bers (1970:12) and Gurciullo (2014:3) found five ways OCGs establish such relationships with the legal sectors. The venture may be completely legal, “carrying out legitimate activities and creating strategic partnerships with established market players” (Operti, 2019). These targets can be used as a legal front or “cover” (e.g., a legitimate restaurant that the OCG uses as a meeting place or for money laundering).

Alternatively, the relationship may be exploitative (or parasitic); therefore, the OCG utilise predatory actions such as extortion and coercion to “extract criminal gains” (Bers, 1970:7; Mallon & Fainshmidt, 2020:3). Bers (1940:8) and Gurciullo (2014:6) further argue that the relationship may be monopolistic. Therefore, the OCG employs anti-competitive behaviour (e.g., price-fixing) and collusion to control an entire market’s supply or demand. Conversely, an OCG can offer specific advantages to ensnare a legal entity (Bers, 1970:8); such advantages are attractive as it places the target in a superior market position. For Bers (1970:28), these offers may include preferential treatment by government officials (obtained through corruption or coercion). Finally, a mutually beneficial relationship may be established. Thus, a partnership between the OCG and the business. For example, the Japanese Yakuza act as debt collectors for legitimate businesses; the creditor receives debt that would have been written-off, and the Yakuza receives their fee (Baradel, 2021:79; Bers, 1970:30).

Consequently, the infiltration-relationship can be as follows: completely legal, exploitive or parasitic; monopolistic; unfairly advantageous, or symbiotic with criminality. What prevails is that OCGs “constantly seek to obtain power, influence, and monetary gains” (FBI, 2021). Therefore, markets offering opportunities for expansion through collaboration (with both the legal and illegal) will be infiltrated and exploited (Forest, 2021:1).

1.1.1.3 Infiltration

Establishing relationships or contact points is generally preceded by a deficiency, need or desire; thus, motivation drives infiltration. Additionally, Bers (1970:41) describes infiltration as “conditioned” because all problems (risks) are weighed against the incentives for the act.

Besides giving insight into needs, these motivations also determine the end goal or function sought after. According to Bers (1970:9) and Gurciullo (2014:6), each venture into the legitimate market has a different function, depending on the motive for the relationship’s establishment.

Some noteworthy motives include a desire to create a way to hide illicit funds or create a power base that could be used to influence or capture a target industry (Bers, 1970:10; Gurciullo, 2014:6). Furthermore, income-based needs, such as a legitimate source, a way to “support or enhance” illicit income or “a generalised demand for income” can be pursued.

These needs are often satisfied by exploring opportunities in the illicit trade, such as supplying counterfeit hand sanitiser during the COVID-19 pandemic or the supply of counterfeit cigarettes during a cigarette ban, as experienced by South Africa during the COVID-19 lockdown restrictions in 2020.

1.1.2 The South African illicit cigarette market

Illicit trade encompasses a myriad of goods and services, varying from the sale of counterfeit cigarettes on the street corner to human trafficking through sophisticated transport networks (Berdiev, Goel & Saunoris, 2020:2). Unsurprisingly, this trade is

also the primary source of income for OCGs, who often primarily exist for fulfilling a demand for illicit goods, services or actors. For example, the demand for cheap cigarettes from consumers in the licit and illicit market (Global Initiative Against Transnational Organized Crime (GIATOC) & Black Market Watch, 2018:5).

The illicit cigarette trade (ICT) is lucrative in the illegal economy; over an estimated 600 billion illicit cigarettes are consumed per year, representing up to 11% of the global cigarette market. The WHO (2013) defines this as “a practice or a conduct prohibited by law related to production, shipment, receipt, possession, distribution, sale or purchase of tobacco products, including any practise or conduct intended to facilitate such activity”.

These cigarettes primarily fall within three categories: smuggled, counterfeit, or “cheap whites” (Tobacco Tactics, 2021a). Smuggling entails diverting (legally manufactured) cigarettes to an illicit market. It can be achieved through sophisticated or simple smuggling networks, utilising weaknesses in border or customs controls of countries such as South Africa. For example, Zimbabwean syndicates smuggling cigarettes often rely on “ant smugglers” (runners with backpacks) or hidden compartments in vehicles to cross the borders into South Africa (Erero, 2020:14; Bottomley, 2020).

Counterfeit cigarettes make unsanctioned use of a legal manufacturer’s trademark; these counterfeits are subsequently converged with the licit supply or smuggled to the consumer (Tobacco Tactics, 2021b). “Cheap whites” are not necessarily low-priced nor always illegal because they are legally manufactured. Nevertheless, “cheap whites” form part of the illicit market due to being smuggled or sold without paying the necessary tax.

Furthermore, the “plain” packaging is often non-compliant regarding health warnings requirements or tax stamps. For example, in South Africa, per the Tobacco Products Control Act (1993), health warnings must occupy specific percentages of the packaging, *inter alia*, 15% of the front. Additionally, an “antiquated diamond-shaped excise stamp impression” is required, which Vellios, Van Walbeek, and Ross (2021:1) describe as “barely visible and easy to counterfeit”, therefore, nullifying its purpose.

The most significant consequence of this illicit market for governments is tax evasion, resulting in decreased government revenue (Tobacco Tactics, 2021a; Tobacco Control Laws, 2019). A global estimate of USD 40.5 billion (around ZAR 294 billion) was lost in government revenue in 2011 (alone) due to cigarette-related tax evasion (Tobacco Tactics, 2021a). Specific countries plagued by illicit cigarettes, such as South Africa and Australia, each lose ZAR 8 billion and AUD 20 million (ZAR 22.3 billion) per annum in revenue. The Australian cigarette market comprises about 3.8% of illicit cigarettes, while 25% of South African cigarettes are illegally sold or manufactured (Erero, 2020:19; Smoke Free World (SFW), 2019).

The efforts to curb this trade mainly aim to reduce cigarette consumption by emphasising health risks and increasing prices through increased taxation. However, these efforts may act as a catalyst, moving the consumer to seek cheaper alternatives and the sellers to evade tax or seek cheaper suppliers (Aziani, Calderoni & Dugato, 2020:2; Berdiev, Saunoris & Schneider, 2018:537). Moreover, any attempts to hinder economic freedom – voluntary, personal choices in open markets – may expand the related illicit trade (Berdiev, Saunoris & Schneider, 2018:539).

Economic and physical freedom was constricted during the COVID-19 pandemic as countries instigated lockdowns to try and minimise human contact. South Africa declared a national state of disaster on 15 March 2020, persisting to this day. (Ongmu, 2021). During this pandemic, the country entered various phases of lockdown, each with varying restrictions. One such restriction was a ban on the sale of cigarettes, deemed as “non-essential” (Filby, Van der Zee & Walbeek, 2021:1). Nevertheless, cigarettes remained “readily available” as the 7 million South African smokers turned to alternative, illicit suppliers (Van Walbeek, Filby & Van der Zee, 2020:3; Naidoo, 2020).

1.1.3 The illicit wildlife trade

The wildlife market also exists on two plains: the legal and the illegal. This is due to the functionalities (e.g., end consumers and trade routes) being similar. A delicious calamari dish, a musical instrument, tropical fish in an aquarium, ginseng tea, and

decorative cacti or orchids in one's home are all part of the wildlife market, with which interaction is quite common (Kolby, 2020).

Though, historically, the concept of conservation was foreign (only appearing in the nineteenth century), the act of pillaging the environment was not (Wittig, 2016:80). This is exemplified by the demise of the infamous Dodo (extinct due to hunting) and the Great Auk. This Alcid bird became extinct “with the last mating pair famously strangled to death on 3 July 1844 by two hunters, who also stomped on the last known egg of the species” (Wittig, 2016:82). Even though monetisation and exploitation of wildlife are still commonplace, the act of demolishing an entire species is no longer regarded as acceptable, with the international community condemning it (Wittig, 2016:82).

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), is an international convention aimed at ensuring legal, sustainable and traceable international trade of fauna and flora, comprises three appendices. Each appendix grants a form of protection to the species listed: Appendix I prohibits all trade, Appendix II and III provide for controlled trade (CITES, 1973; United Nations Conference on Trade and Development (UNCTAD), 2020:5). Moreover, a total of 36 000 wildlife species, of which over 30 000 are plants, reside under these appendices (3% appears in Appendix I) (UNCTAD, 2020:4-5). A legal trade, licensed by CITES to ensure sustainability and transparency, exists for the remaining 97%. This legal trade is essential for “millions of people (who) depend on plants and animals for their livelihoods and survival” (UNCTAD, 2020:6).

The illicit wildlife trade (IWT), consisting of Appendix I and unlicensed Appendix II and III wildlife, is growing at 5-7% per annum – faster than the global economy (Interpol, 2020). The IWT is a massive, lucrative international industry with confirmed trafficking in over 6000 species, as calculated by UNODC (2020:3) from seizures between 1999 and 2018. This trade offers chances of high rewards as many species are regarded as high value; for example, rhino horn was valued at over USD 100 000 per kilogram in 2016 (UNODC, 2020:14).

Additionally, the IWT offers attractive options for criminal expansion, as the perceived risk associated with participation therein is significantly less than, for example,

trafficking narcotics. This results from a general lack of law enforcement dedication, capability and resource-allocation towards combatting the IWT (Idris, 2019:6).

1.1.4 Motivation of topic actuality

The COVID-19 pandemic has led to increased organised crime, especially relating to the smuggling of people, alcohol and cigarettes (Accord, 2020) and, ultimately, the expansion of organised crime groups.

OCGs drive the world's illicit economy. Their transnationality offers opportunities for infiltration as illicit and licit markets overlap. Subsequent abuse of their extensive supply chain, with licit and illicit parts, is dangerous, as it muddles the water for law enforcement and regulators to separate the legal from the illegal. Furthermore, the literature has indicated that tax evasion is one of the most significant effects of the illegal markets, as it causes substantial losses to the fiscus.

Research has indicated that regulatory initiatives implemented can inadvertently cause the illegal market to flourish, for example, in the tobacco industry (Aziani, Calderoni & Dugato, 2021). The global fauna and flora trade is complex and ever-changing (e.g., new role-players appear to capitalise on social trends, or existing ones adapt following changes in CITES-appendices).

This form of trade cannot be viewed as separate because the supply chains are often linked to legal and illegal, domestic and international communities due to its global nature. Previous publications have yet to take such a holistic perspective on combatting efforts, thereby accounting for the regulatory context while also considering social and economic factors (such as motivations for participation and the viability of particular local wildlife markets).

1.2 Problem statement

The licit market may be susceptible to infiltration by OCGs due to insufficient or ineffective regulation. It can, therefore, be exploited by OCGs to converge with licit markets, which are perceived to offer higher rewards (such as profits) for a lower risk.

The illicit market participants, such as OCGs, pursue convergence with the licit market as a method of self-improvement, or due to their entrepreneurial nature, as a result of their constant search for new opportunities (Kleemans & Soudijn, 2017:9). Subsequently, the licit and illicit often overlap when specific needs of illicit enterprises are not met or can better be served through legal channels or with the help of legal actors (Berdiev, Saunoris & Schneider, 2018:557). This convergence (often established through infiltration) takes many forms and consequently establishes different relationships with the targeted legal business (Bers, 1970:12; Ponsaers, Shapland & Williams, 2008:645).

Consequently, the main problem statement to be addressed by this study is: How can the infiltration of an evolving licit market be restricted? In order to answer the main research question, the study will aim to answer the following secondary questions:

- What are the drivers and methods for infiltration of a licit market by organised crime groups?
- How can the current attempts at regulating the South African tobacco trade, specifically its cigarette market, be improved?
- How can the threat of criminal coordination in South African illicit wildlife markets be addressed?

1.3 Research objectives

1.3.1 Main Objective:

This study's main objective is to answer the problem statement. The main objective is to critically analyse the infiltration of identified licit markets by organised crime groups to enable substantiated outcomes rendered from these researched markets to guide and inform the reform of existing legislation, regulation and other applicable regulatory requirements.

1.3.2 Article objectives:

The main objective will be addressed through three distinct goals in individual articles, which aim to explore the following themes:

- An investigation of methods and drivers for infiltration of the licit market by organised crime groups. This will be examined in Article 1 (Chapter 3).
- Examining the attempts of South Africa to regulate its tobacco market, specifically concerning the domestic illicit cigarette market. This will be assessed in Article 2 (Chapter 4).
- Compiling an indicator-based model for examining the threat of criminal coordination in South African illicit wildlife markets. This objective will be addressed in Article 3 (Chapter 5).

1.4 Chapter layout

Chapter 1 provided context for this study through background information that illustrates the actuality of the research question. Chapter 2 will explain the chosen research methodology and the rationale behind the selection. Ethical, methodological and paradigmatic research considerations will also be explained, including the ontological and epistemological assumptions made.

Chapter 3 to 5 will each serve as one of the three articles, each specifically addressing a secondary objective (3.2).

Article 1 (Chapter 3) will investigate methods and drivers for infiltration of the licit market by organised crime groups. This will be a qualitative literature study in the form of critical analysis. Different methods of classification will be explored to identify and describe structural or organisational forms of OCGs. Various case studies (from around the world) will be used throughout to explain the different theoretical concepts.

Article 2 (Chapter 4) will examine the current scale and nature of the ICT and evaluate the attempts to combat it in South Africa. This will be a qualitative literature study in the form of critical analysis. Various approaches will be used to explore possible explanations for the success of the South African ICT. These include *inter alia* social,

economic, psychological and political factors, as well as law enforcement capability. These will be considered, alongside international best practice recommendations, to develop fit-for-purpose recommendations to address the identified weaknesses in the current regulatory approach.

Article 3 (Chapter 5) will investigate the threat of criminal coordination in illicit South African wildlife markets to propose an indicator-based model to detect possible escalation in respect to this threat. This will be a qualitative literature study in the form of critical analysis.

Chapter 6 will conclude the study's findings and make recommendations towards improving or developing the relevant measures applied in South Africa by referring to each of the articles.

1.5 Conclusion

OCGs tend to capitalise on criminal opportunities as it helps the syndicate develop or adapt to suit their environment better. Consequently, infiltration is pursued because the potential convergence with the licit market aligns with an OCG's need for self-improvement (Kleemans & Soudijn, 2017:9). Therein lies the most significant threat – the OCG virus inherently strives to infect the healthy, licit economy.

This study aims to provide insight into infiltration behaviour and highlight inefficiencies in the regulatory approaches to address the OCG threat, particularly in susceptible grey markets. This critical analysis seeks to formulate fit-for-purpose recommendations to improve combatting and preventative measures; thereby, aiding the fight against the spread of criminality by bolstering the arsenal of regulators, policy makers and legal authorities.

The chapter following will move towards providing the foundation for the philosophical assumptions, methodology and overall academic approach that will be utilised for this study.

CHAPTER 2: RESEARCH PHILOSOPHICAL ASSUMPTIONS, APPROACH AND METHODOLOGY

The word “research” has the prefix “re-”, which alludes to its repetitive nature. Therefore, it could be regarded as an organised search for a new perspective of “already existing facts” (Pandey & Pandey, 2015:7).

2.1 Study context

This study will be conducted in an article format; therefore, it shall be divided into three articles, each falling within (and contributing to) the overall study’s aim. However, each article shall be freestanding but will form part of the overall theme, underpinned by requisite theoretical content and substantive conclusions. The framework for the study is described further herein.

2.2 Philosophical assumptions and paradigms

A research paradigm comprising assumptions about ontology and epistemology reflected in the chosen methodology and methods is peculiar to a specific case (Hart, 2018:51; Scotland, 2012:9). *Ontology* can be defined as one’s perception of reality, while *epistemology* relates to the relationship between the “knowledge-seeker” and the knowledge created, acquired or communicated. The rationale for selecting a *method* (or plan for reaching a specified objective) is the *methodology* (Scotland, 2012:9; Hart, 2018:51).

Several paradigms exist and can therefore be considered to determine suitability:

- Positivism forms part of the scientific paradigm (Scotland, 2012:10). Positivism entails the belief that the subject exists autonomously, thus separate from the researcher. Therefore, the ontological position entails realism, while the epistemological refers to objective realism. Consequently, if this methodology is followed, the outcomes would aim to establish laws or “absolute knowledge”.
- The interpretive paradigm (Scotland, 2012:11) is founded on the belief that one’s perception of a phenomenon is what gives it value – acknowledgement (through

interaction) establishes meaning. Consequently, as sensorial observations are subjective, each observer's regard for the subject is unique. This subjectivity, however, does not hinder constructing a single "true" point-of-view, if justifiable. This justification must show that the conclusion drawn represents a consensus between the observers. Therefore, this methodology is often used to gain insight into behaviour; but is deemed unsuitable where underlying objective criteria is required to establish validity (e.g., through a peer-review system). The relevant ontological point-of-view is one of relativism, while the epistemological position is that of subjectivism. This is indicative of this paradigm's foundation of connectivity and interdependence between the observer and the subject. Examples of methodology that may be followed include case studies, phenomenology, hermeneutics and ethnography.

- The critical paradigm (Scotland, 2012:13) follows the ontological disposition of historical realism. It is believed that the present is a result of multiple factors, including political and cultural values. Therefore, a phenomenon has a pre-existing meaning because it is part of a pre-existing context or system (e.g., one's family culture). The prevalent epistemology is subjectivism, which acknowledges that "knowledge is socially constructed and influenced by power relations within society". Thus, instances of *inter alia* marginalisation and privilege must be accounted for, as knowledge is seen as being able to emancipate those facing inequality or exclusion. This, however, implies that a marginalised grouping would be superimposed upon a participant regardless of whether the generalisation applied would be appropriate.

The relevant paradigmatic assumptions are as follows: a relativistic (interpretive) approach will be used rather than a positivistic approach, acknowledging that the researcher cannot claim to be objective. Consequently, the epistemological position of subjectivism is also applicable. A positivistic approach would be unsuitable due to its absolute (clear-cut) scientific nature.

A historical approach is inappropriate as the marginalisation of people participating in the activities in question will not be addressed. However, it is deemed appropriate to provide the social and economic context in Article 2 (as the focus is on South Africa).

Additionally, if appropriate, context will be given in Article 3 regarding cultural beliefs (e.g., using animal parts as traditional medication).

2.3 Research approach

When considering the information sought after, research can be classified as either qualitative or quantitative (McLeod, 2019). McLeod (2019) explains that qualitative research is “concerned with understanding human behaviour”, while quantitative research offers data that will be analysed through “numerical comparisons and statistical inferences”. Similarly, suppose the extent of the research’s applicability is considered. In that case, Pandey and Pandey (2015:11) describe the categories as being fundamental (for universal usage) or experimental (of restricted use).

This research and the respective articles will use critical qualitative analysis to expand the literature in forensic accountancy, especially methodologies to combat transnational organised crime.

A qualitative study is selected due to the scientific nature of the relevant research field, namely Forensic Accountancy. This field of social science depends on human behaviour, perspective and interpretation. Humans are the instigator of criminality and, when applicable, of the formation of illicit enterprises. They are the identifiers and utilisers of the opportunities for crime in the legitimate business environment.

2.4 Research methodology

Data can be sourced from primary and secondary sources. Primary sources add new data “to the existing store of social knowledge” through collection methods such as qualitative interviews. On the other hand, secondary sources refer to readily available sources to the “general research community”, and access is often obtained through a university’s archives (Hox & Boeije, 2005:593).

If something is *qualitative*, it is defined as “involving quality or kind” (Merriam-Webster Inc. 2019), for example, blood types. In contrast, *quantitative* refers to data “expressible in terms of quantity” or “involving the measurement of (an) amount”, such as an amount of money (Merriam-Webster Inc. 2019).

Research is regarded as being well-designed if certain qualities can be identified, which include “objectivity”, “reliability”, “validity”, “generalisability”, and “adequacy” (Pandey & Pandey, 2015:20-21). Additionally, Pandey and Pandey (2015:21) explain that generalisability in this context demands that the research results allow generalisations to be made (within the relevant data’s population). Moreover, being awarded the characteristic of adequacy would require considering sufficient information and creating a context (McLeod, 2019).

Secondary sources will be used for data collection. The data to be collected will be qualitative, as a document review will be conducted, which according to Bowen (2009:28), includes survey data and published documents.

Each article will be approached similarly – a critical qualitative analysis. Objectivity and reliability will be sought, where possible, in the data collection and judgment processes (Pandey & Pandey, 2015:21).

Furthermore, a researcher should provide insight into how he/she intends to draw inferences – through inductive or deductive reasoning. Inductive reasoning serves to extrapolate a generalisation after assessing a specific case. Contrastingly, a deductive approach would do the opposite; a specific phenomenon would be studied according to a theory or principle (Scotland, 2012:14). Consequently, a complementary inductive conclusion for this study will be drawn.

2.5 Literature review

“By integrating findings and perspectives from many empirical findings, a literature review can address research questions with a power that no single study has” (Snyder, 2019:33).

This study will use literature from various sources, including (but not limited to) journal articles, newspaper articles, public or governmental publications, international and South African institutional information platforms, and legislation. Therefore, a literature review involving a document analysis will be conducted, which will be done according to the four-phase model formulated by Snyder (2019:336).

- Phase 1 – Designing the review: The development of the research question and selecting an appropriate search strategy after gaining insight into the purpose of the study. This study will employ a keyword search to initially gather resources through the North-West University library databases.
- Phase 2 – Conducting the review: Conducting a “pilot test of the review process and protocol” and determining which resources should be excluded. The literature collected will be submitted to its first quality review by *inter alia* examining the cited resources and research method employed.
- Phase 3 – Analysis: Performing the task of converting data into usable information and findings.
- Phase 4 – Writing the review: The quality and reliability of the information intended for use should be assessed through a transparent process, followed by transforming the findings into an appropriate format, as determined by the intended purpose or use. The literature collected will be submitted to a final quality review by *inter alia* examining the reasoning behind conclusions and recommendations and considering whether other (including contradicting) opinions exist on the subject. Subsequently, the relevant information will be extracted and appropriately integrated into this study.

2.6 Ethical considerations

Ethical clearance is needed if a study could impact the environment or the participants (human and/or animal). This study will not require interaction between the researcher and selected participants, additionally no foreseeable environmental impact will be made as no pollution risk can be identified.

2.7 Conclusion

This chapter discussed the research philosophical assumptions, approach and methodology of this study. It was determined that the study will follow a qualitative research approach and methodology, thereby acknowledging that forensic accountancy is a social science, dependent upon human behaviour, perspective and

interpretation. Similarly, the foundation for this study will lie within the interpretive paradigm and thus take an epistemological position of subjectivism. This is because the study aims to formulate reform recommendation that will be based on a subjective opinion regarding the effectiveness and appropriateness of current regulatory initiatives and approaches. This opinion will be based on literature from various sources, such as journal articles and legislation, critically analysed in three distinguishable articles.

Article 1 will be a qualitative, literature study in the form of a critical analysis, which will explore various cases of OCG infiltration behaviour in licit markets. The second article will employ a critical analysis to examine the attempts made by South Africa to regulate its tobacco market, specifically its ICT. Similarly, a critical analysis in article 3 will be used to compile an indicator-based model for examining the threat of criminal coordination in South African IWT.

Lastly, the primary objective of this study, of critically analysing instances of infiltration of the licit market by OCGs to provide guidance for possible reform efforts, will be addressed in a complementary inductive conclusion.

CHAPTER 3: ARTICLE 1

Exploring infiltration behaviour by organised crime groups

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Exploring infiltration behaviour by organised crime groups

Abstract

Purpose – This paper aims to provide a holistic view of infiltration behaviour by organised crime groups, with a specific focus on the methods used to access the legal market, including factors that drive an organised crime group to pursue infiltration. The act of infiltration is examined as a business decision; therefore, factors such as the surrounding community, the availability of criminal opportunities and broader implications, are considered.

Design/methodology/approach – This paper initially discusses the concept of an organised crime group but goes beyond a search for a definition. Instead, where possible, identifiable trends in behaviour and structure are investigated. The act of infiltration is dissected, including the infiltration behaviour of organised crime groups and their related decision-making processes.

Findings – The overall action of infiltration is complex; therefore, any countervailing combatting and preventative actions will need to follow suit. Organised crime groups pursue infiltration only when deemed feasible and to their benefit in furthering their illicit actions. Criminal opportunities are pursued across the entire economic sector. When organised crime groups participate in a legal market, their criminality infects the healthy market and leaves it ill and contagious to the rest of the licit economy.

Originality/value – Infiltration is organic as it indicates growth or adjustment to changing market conditions. Criminal opportunities are widespread, and their creation is often unintentional—the legal economy casts a shadow. Combatting organised crime, entrenched in the lawful community, requires that the focus should be on the susceptibility of potential infiltration targets through the possible infiltration methods. Furthermore, a broader perspective is needed when considering the underlying motivation for infiltration—it may not only be to generate profit.

Keywords: Illicit markets, Infiltration, Licit economy, Organised crime groups

Introduction

Organised crime groups (OCGs) constantly evolve and adapt to capitalise on changes within the global economy (UNODC, 2004:3; Lavorgna, 2015:153). Globalisation has created favourable conditions for OCGs to flourish and vastly expand their operations (Standing, 2003:3). Furthermore, developments in the value or supply chain, such as access to new trading routes, result in a higher probability of convergence between different illicit markets (interchangeably used with illegal or shadow markets) (Dininio & MSI, 2020:1).

The shadow economy mirrors an actual shadow, a dark economy with indiscernible features, often lurking just below the surface. The long shadow cast by OCGs is yet to be adequately addressed, as evident during the COVID-19 pandemic that saw OCGs easily step into new markets (Accord, 2020). Thus, even when anticipated, such as during times of unrest and uncertainty, infiltration is still achieved, and OCGs can expand into the legal economy.

An OCG pursues convergence with legal markets (and its participants) as it aligns with its need for self-improvement and capitalising on new opportunities (Kleemans & Soudijn, 2017:9). The convergence is driven by specific needs not being met or insufficiently being met (Berdiev, Saunoris & Schneider, 2018:557). Consequently, infiltration (a convergence tactic) is often a natural inclination as the OCG wishes to develop or adapt to better suit its ever-changing environment.

A key strategy employed by OCGs is infiltration, with the threat thereof being unlikely to abate (VLRC, 2015; Savona & Berlusconi, 2015). The nature and extent of infiltration, and specific enterprises susceptible to it, are difficult to identify (VLRC, 2015). Furthermore, insight into infiltration behaviour is limited, especially concerning the underlying drivers and methods (infiltration process and related strategies) (Savona & Berlusconi, 2015:18).

Consequently, this paper examines the drivers for infiltration, including what motivates this type of behaviour by OCGs. A holistic approach is followed to discuss the methods used to access the legal market and factors that drive an OCG to pursue

infiltration. The act of infiltration is examined as a business decision, and subsequently, factors such as the surrounding community, the availability of criminal opportunities and broader implications are considered.

2. Defining organised crime

Organised crime is an intricate concept, resistant to definition due to organised crime groups' diverse structures and activities; many different and often opposing formulations exist. However, a clear explanation is crucial, as one needs to grasp this concept before establishing how to respond to its activities (Aslett, 2018:15; Gilligan, 2007:101).

The UNODC (2004) defines organised crime as the activities of a structured group of three or more persons existing for a period. The group acts with the common aim of committing one or more serious offences to obtain, directly or indirectly, a material benefit. Kleemans and Soudijn (2017:4) focused on continuity, as organised crime habitually involves making decisions and interacting with other role-players (legal and illegal). The focus on continuity (to some extent) and collusion, which shows planning by more than one person, is considered appropriate. The requirement to generate material benefits is deemed inappropriate to avoid oversimplification that all activity aims only to increase profits.

OCGs are autonomous and unique; this hinders precise classification or grouping. However, two approaches that examine OCGs according to their structure or activities are explored (Le, 2012:122). Also included is a discussion about the influence that market conditions and the surrounding community can have on an OCG's activities. Furthermore, the broader effects of the OCG's presence (and the ensuing relationship) are investigated.

Structure (Forms)

OCGs can be grouped into two general sub-structural formations:

1. Groups with hierarchical structures; and
2. Groups based on decentralised coordination.

Hierarchies

A hierarchy is a modern criminal enterprise that has been centralised, organised and commercialised. A central authority governs hierarchies with strict behavioural guidelines. These family-like structures value discipline and loyalty to the figurehead, thus requiring intimidation and submission as indicated in **Figure 1** (Lavorgna, 2015:159; Le, 2012:123; Standing, 2003:13).

These OCGs are active in the legal economy and gain access through intimidation and violence. Profit and the need to control their territory and its politics drive these groups (Lavorgna, 2015:159; Agreste *et al.* 2016:31).

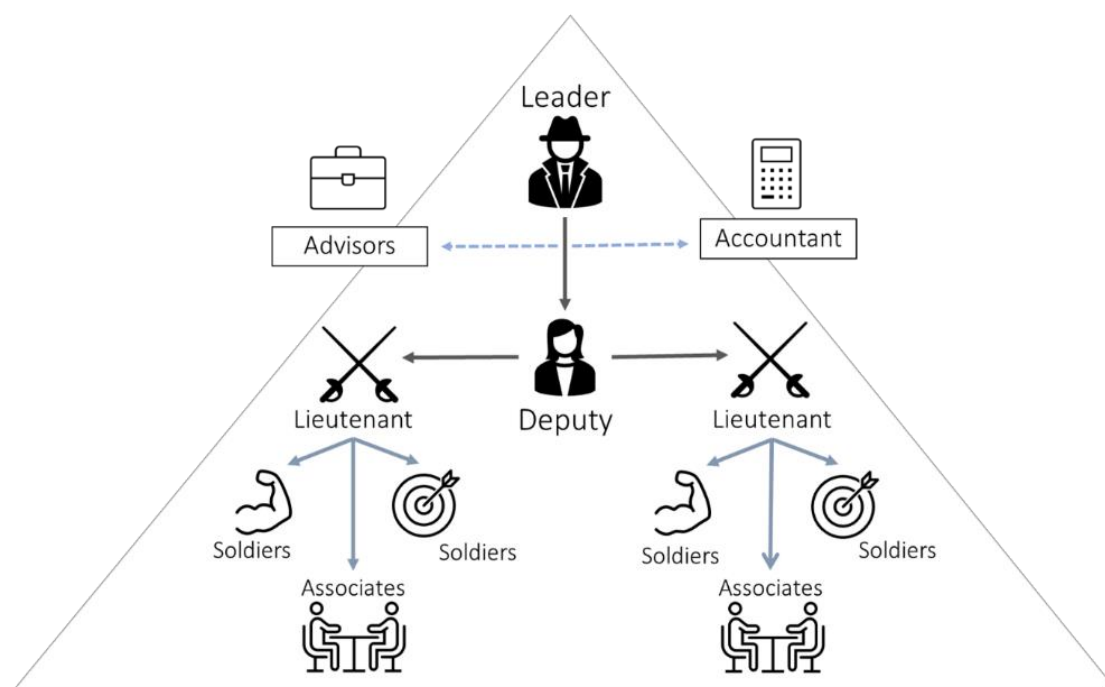


Figure 1: Hierarchy structure (based on Cantino, 2019:139)

As shown in **Figure 1**, hierarchies have a leader at the top of the organisation, assisted by a deputy and lieutenants who act as section heads. The lieutenants command a crew of soldiers, who are primarily tasked with committing crimes. The section heads also interact and foster relationships with associates such as corrupt police officials. Examples include the traditional Italian mafia-style groups: The Camorra, Costa Nostra and 'Ndrangheta (Agreste *et al.*, 2016:30).

Decentralised groups (networks)

Decentralised groups are known for their flexibility, responsiveness and lack of physical form. These groups or networks are often not territorial or inclined to violence. Networks are instead temporary, liquid partnerships (Wyatt, Van Uhm and Nurse, 2020:357; Standing, 2003:8).

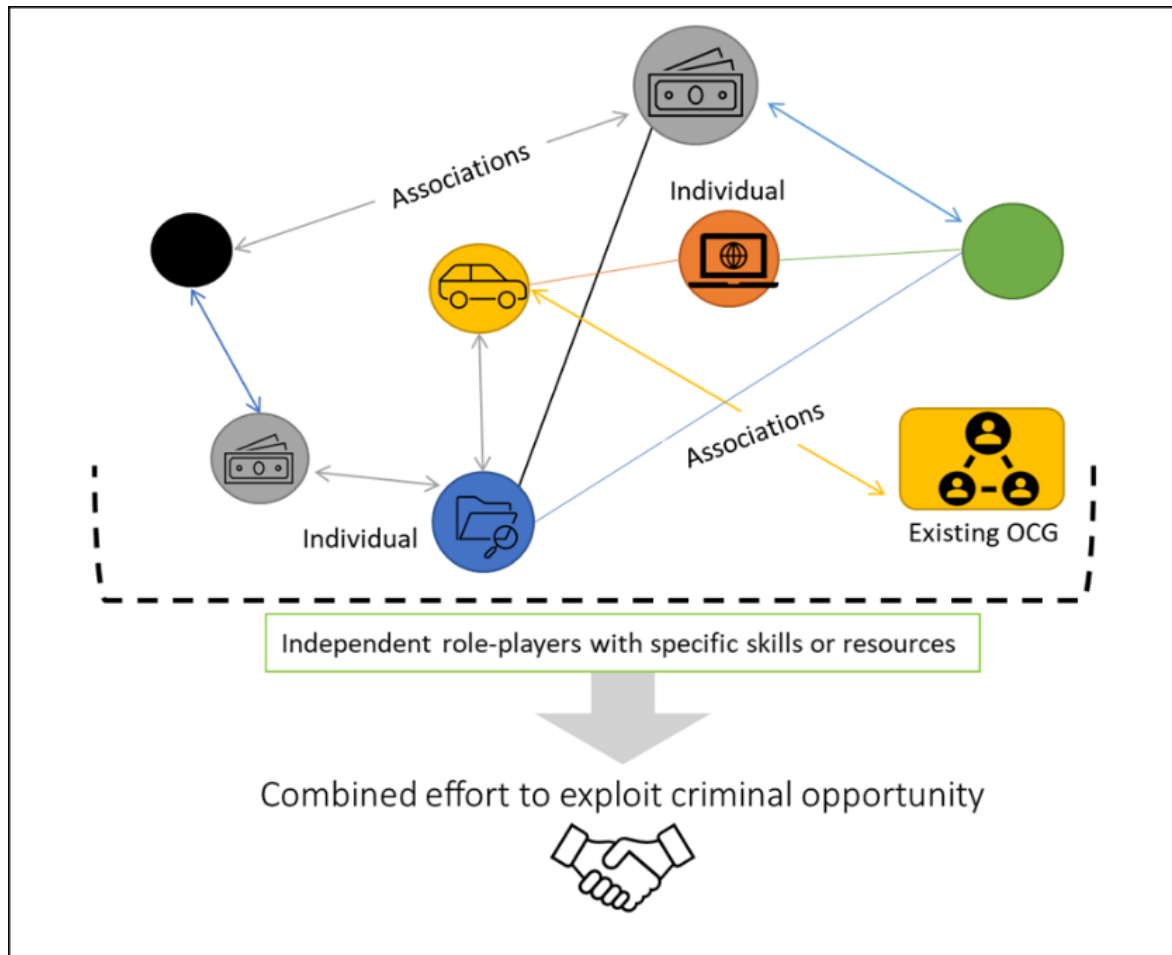


Figure 2: Network structure (Source: Author)

As indicated in **Figure 2**, each agent (role-player) is responsible for their behaviour or task within the network. Therefore, mutual trust is fundamental. The OCG requires and expects each contributor to do its part. No single authority or leader exists. Thus, decisions are decentralised and less coordinated. Participants merely collaborate (temporarily) to exploit specific criminal opportunities (Wyatt, Van Uhm and Nurse, 2020:357; Standing, 2003:9).

Networks often manifest in the illicit wildlife trade. For example, opportunists create a temporary alliance to enable wildlife smuggling. These individuals can include truck drivers, border officials and game rangers. Sometimes collaboration with an OCG can also occur. However, the individuals are seldom part of an OCG themselves.

The individuals may be brought together because of criminal prospects but could also be drawn to participate due to the nature of the other role-players involved, for example, shared cultural bonds or beliefs (Sergi and Storti, 2020:9; Calderoni *et al.*, 2020:10). Alternatively, the OCG's participation can be influenced by the market conditions in which it operates (Standing, 2003:9).

Nature

OCGs are opportunists—exploiting opportunities globalisation has inadvertently provided (Standing, 2003:52; Kleemans & Soudijn, 2017:2). These opportunities are naturally not confined to the illicit economy. Success often demands access to an extensive supply chain which often overlap with legitimate business operations (Goga, 2015). Therefore, infiltration (the OCG stepping into the legal economy) occurs regularly.

The relationship between legal and illegal enterprises are often mutually beneficial. The legitimate role-player deals with the legal production and consumption of goods and services. This legal business often benefits from services provided by its illegal counterpart (the OCG). The legal entity's status may also aid the OCG, for example, if the group needs a legal front for money laundering (Ruggiero, 1997:28; Gurciullo, 2014:21).

External forces influence OCGs (or their participants). However, only two are deemed noteworthy:

1. Economic market conditions; or
2. Ethnicity (culture, language and religion) and community.

Economic market conditions

Market forces can determine the type and size of the operation and influence the OCG's decision-making (Standing, 2003:9). The economic factors of supply and demand predict behaviour. For example, higher demand for a particular product should result in higher production. Therefore, the group's actions are reactions to changing market conditions, as it aims to adjust to serve its customers best and maximise opportunities presented by changing market conditions.

Business-like OCGs have diverse structures, from well-established groups to short-term leaderless networks (Lavorgna, 2015:156). Their primary motivation is to generate profit in a broad market (shared with other participants). Consequently, these OCGs need to be competitive. A well-established OCG will want to survive and thrive in the prevailing market conditions, while a short-term arrangement may be entered into to meet specific goals or objectives (reason for forming the network) (Standing, 2003:9).

Most OCGs will have to consider the market conditions applicable to them, as they aim to serve their customers effectively. OCGs adapt when market conditions change, for example, during the COVID-19 pandemic. During this period, some human trafficking networks adjusted their asking prices (to smuggle migrants across borders) to include bribes payable to officials to ensure passage across the then closed-off borders (Bird, 2020:12).

Ethnicity and community

Borders often separate the territories of structured OCGs. Within such territories, between official or unofficial borders, communities exist. An OCG's community affects some of its actions, such as recruiting new members (Calderoni *et al.*, 2020).

Traditional (hierarchical) OCGs use a shared ethnicity as a tool to recruit. A community with a similar subculture to that of the OCG acts as a recruitment pool. The subculture breeds honour, loyalty and respect between the OCG and the community. Commonalities act as a glue between its participants, and such unity

strengthens internal bonds by creating mutual trust and a shared identity (Sergi and Storti, 2020; Calderoni *et al.*, 2020:10).

Encounters with OCGs, especially in work environments, create recruitment opportunities (Calderoni *et al.*, 2020:8). Similarly, if individuals in the OCG's territory face unemployment, they are susceptible to being recruited by OCGs (Fraser *et al.*, 2018:5). If the OCG fills the gap of being an employer, the individual feels a sense of belonging and purpose.

Whilst the community can influence the OCG, the OCG's presence or activities can also affect the community. These adverse or beneficial effects result from the relationship formed between the OCG and its environment (the community). These relationships can be tumultuous; for example, the city of Medellin has a love-hate relationship with the Colombian drug lord, Pablo Escobar (Anderson, 2018; Tarvainen, 2017).

Effects on the community

Pablo Escobar is admired by some for his community outreach, which included building houses for the poor. And even today, almost 30 years after his death, his notoriety drives tourism in the area through exclusive 'narco tours' (beneficial effects). However, death and violence (adverse effects) are also associated with Pablo Escobar as most citizens have a relative or acquaintance who was murdered by the cartel (Anderson, 2018; Tarvainen, 2017).

When examining the impact organised crime has on its economic environment, contrasting opinions exist. Some describe the resulting relationship, especially in developing countries, as creating precarious dependence on the illicit proceeds (UNODC, 2018; Standing, 2003:56). This dependence-argument is opposed by literature referring to Afghanistan's heroin trade. The profit for heroin farmers is minuscule compared to what the sellers/distributors in other countries make. Therefore, it is unlikely that large profits (creating dependence) will find its way back to Afghanistan; thus, the beneficial effects are effectively nullified (Standing, 2003:56).

The IRA: Ministry of Counter Narcotics (2015:25) disputes this by illustrating the extent of Afghanistan's heroin trade. From 2003 to 2007, this drug market (extending from the growth of the poppy plant to the eventual smuggling) comprised nearly half of the country's total Gross Domestic Product (GDP).

Regardless, the issue explored is broader than possible dependence; it is rather the overall infiltration risk, including how the capture of legitimate businesses poses a threat to the licit economy. When OCGs participate in the legal economy, their criminality infects the healthy host's body and causes sickness (a weakened state).

3. Infiltration: Stepping into the legal economy

The OCG conducts an extensive risk assessment to establish whether the expected rewards justify the risks taken (Bers, 1970:41). For example, in the counterfeit trade, the cigarette market is attractive. Counterfeit cigarettes generate high profits, while the possible penalties are less daunting when compared to alternatives such as the drug trade (Radisch, 2016:23; WBG, 2019).

The target's context and circumstances (prosperity and safeguards in its market) influence the OCG's decision to infiltrate the legal economy. Identifying drivers for the infiltration effort provides insight into the criminal opportunities in the legal (target) market. By identifying criminal opportunities or risks thereof, infiltration efforts may be deterred (VLRC, 2015).

Infiltration opportunities

Infiltration methods are selected to best exploit criminal opportunities (self-created or existing) (Levi, 2014:7). Albanese (2008:414) classifies criminal prospects into two classes: those providing easy access to illicit funds (without high risk) and those created by motivated offenders. The easy-access type refers to traditional sources satisfying the public demand for illegal narcotics or illicit cigarettes. The latter class of opportunities creates the potential for criminality in an otherwise legitimate market, often through bribery or extortion (Albanese, 2008:414).

The act of infiltration

According to Savona and Berlusconi (2015:19), infiltration consists of four elements: a criminal enterprise, a representative or affiliate thereof, an investment of resources, and participation in the target's decision-making process.

The first element, the criminal enterprise (or OCG), refers to a criminal role-player that ranges from large hierarchical groups to widespread networks of collaborators, as indicated earlier. The second element is a representative, a natural person or legal entity tasked with literal infiltration, creating the cover or "straw man" for the OCG (Savona & Berlusconi, 2015:19).

The third element, the investment of resources, requires the OCG to supply something of value to the target, such as the use of or access to its property (land, buildings or natural resources) (Scheye, 2019:6). Infiltration may not always require resource investment and could prove valuable as it may offer increased control over the target if it depends upon the provided resource.

This increased control grants the ability to influence the decision-making process, the fourth element, and includes the capability to affect business decisions, investments, and strategies, as well as operational choices and resource allocation. OCGs aim to infiltrate targets, that if influenced, offer the possibility to re-direct resources toward selected areas of strategic interest for the OCG (Di Cataldo and Mastrorocco, 2019:20; Savona and Berlusconi, 2015:19).

According to Paoli (2004:248), some of these elements may not be applicable in all acts of infiltration. For example, the Sicilian mafia's operations are also seen as infiltration due to already exercising their established power. The norm is that when a business operates in their family territory, 'a man of honour' from that family should contact the OCG to establish how to repay the OCG for the usage of its territory. These payments consist of a percentage of total operation value or an agreed-upon kickback (Paoli, 2004:284).

This example can be classified as infiltration through exploitation, as the OCG extorts the legal business. The OCG controls a resource (the family territory) that the legal business wants access to. The OCG does not offer the resource as a step in the infiltration process. Instead, the OCG uses its control over the resource to exploit it, thus granting the OCG power over the legal business.

Infiltration takes various forms, with studies identifying five general methods. Their natures include: Completely legal; Exploitive or parasitic; Monopolistic; Unfairly advantageous; or Symbiotic with criminality (Bers, 1970:12; Gurciullo, 2014:4; Kleemans & Soudijn, 2017:398; Baradel, 2021:79). These methods will be discussed briefly.

Completely legal

The 'Ndrangheta, an Italian mafia OCG, used their flower shop, FreshBV, for more than two decades as a gateway to international transport routes offered by the Dutch Royal FloraHolland flower market. FreshBV provided a cover for the 'Ndrangheta to expand overseas, smuggle drugs and launder illicit profits, all by using the knowledge obtained from their legal position in the market (Scherer, 2016; Rubino & Anesi, 2017; Forest, 2020:2).

To establish such partnerships, the OCG needs to offer an acceptable investment, which must blend into the legal economy. In turn, the OCG could operate within the legal community or be associated with the legal business (Forest, 2020:2; Bers, 1970:17). Consequently, infiltration takes place to branch out the OCG's activities to include a licit business venture or affiliation with an influential legal business.

Exploitative or parasitic

Exploitative groups have infiltrated the avocado market in Mexico. These OCGs use threats, kidnapping and murder to force the avocado farmers to pay protection fees. Natural resources needed for farming, such as land and water, are targets, as the OCGs restrict access to these resources. The affected farmers have no option but to pay for the survival of their farms (Anon, 2019; Wells, 2019). The OCGs use the

avocado farmers' dependence on natural resources and the often underdeveloped, secluded and unprotected community's vulnerability to extract payments. Therefore, the OCG is not required to invest its resources, as the infiltration tactic it uses exploits an existing weakness or criminal opportunity.

Monopolistic

Monopolistic markets are attractive to OCGs because exclusivity naturally eliminates the need for price competition. In addition, anti-competitiveness maximises the entire market's profit, achieved through collusion or price-fixing. Its participants use collective pricing decisions or follow a price-leader, making the market susceptible to cartel formation (Bers, 1970:21; Amadeo, 2020).

In South Africa, the domestic trade of rhino horns are permitted, but the local demand for rhino horns are non-existent (TRAFFIC, 2021). Opportunities for infiltration are created when supplying rhino horns to end-users (primarily situated in China and Vietnam), as it requires entering the illicit international market (Lopes, 2019:95). Consequently, even if the OCG is not the producer or supplier, interaction in the supply chain creates the opportunity to infiltrate a relatively closed-off market (Lopes, 2019:110; Agente France-Presse, 2017).

Unfairly advantageous

An OCG uses the offer of unique advantages to infiltrate a target (legal business). These advantages are accepted if the target deems the expected risk worth the benefits that its association with the OCG offers (Chiodelli, 2019:1612; Bers, 1970:24).

Advantages can include offers of influence over labour, together with control over wages, the workforce and unions. The OCG may offer forced partnerships, which generates kickbacks or payoffs. Furthermore, the OCG can influence tender processes to favour business due to its relationship with key players in the relevant market (Chiodelli, 2019:1621; Bers, 1970:9).

In South Africa, a former acting CEO of Eskom (the country's electricity provider), Mr Matshela Koko, was at the centre of such a scheme. The scheme involved Mr Koko's guaranteeing contracts worth ZAR 6.5 billion if the Swiss company, Asea Brown Boveri (ABB), used the subcontractor Impulse International (Impulse) (Hosken, 2019). Subsequently, Impulse, in which Mr Koko's stepdaughter is a part-owner, was awarded contracts (advantages) secured through bribery. Impulse also enjoyed protection as any suspicious Eskom employees were removed or dismissed (Hosken, 2019).

Symbiotic (mutually beneficial)

Symbiotic infiltration is enticing, as it offers profitable, mutually beneficial relationships. Therefore, the OCG requires the target (legal business) to support its illegal ventures. The target, or partner, receives benefits in return (Baradel, 2021:79; Bers, 1970:30).

The OCG seeks a business partner, which can operate in both the legal and illegal sectors, for example, nightclubs. Nightclubs can provide a base for narcotics and prostitution (additional income for the OCG). In turn, the club receives the OCG's patronage (Albanese, 2018:263; Bers, 1970:30; Gurciullo, 2014:9).

Method	Common tactic	Primary driver (aim)
Legal	Offer of resource investment.	Enhance influence in the community; create strategic partnerships.
Exploitative	Extortion and coercion.	Access to the target's resources.
Monopolistic	Insertion into supply chain.	Allow for anti-competitive behaviour.
Unfairly advantageous	Offer unique advantages to the target.	Influence over the target's decision-making process and resources.
Symbiotic	Offer of a mutually beneficial relationship.	Expand operations or gain access to the target's clients.

Table 1: Summary of infiltration methods (Author)

These five distinct methods, as summarised in **Table I**, each employ different tactics to infiltrate. These tactics are influenced by the aim (driving force) behind infiltration and the OCG's ability to supply or perform the underlying action.

4. Reasoning behind infiltration

Infiltration is a considered action; an OCG does not attempt it without considering the infiltration target's context. This context refers to possible criminal opportunities, which the OCG will exploit or develop (Levi, 2014:7).

The OCG will aim to select its target and infiltration method based on its motivation for infiltration. This motivation speaks to the underlying need the OCG wants to fill or enhance (VLRC, 2015). Thus, each venture into the licit market may have a different function depending on the related motive for the infiltration (Gurciullo, 2014:5; Bers, 1970:9). The function relates to the underlying rationale; for example, if the OCG wants the infiltrated target to function as a powerbase, the motive may

be strategic, such as to gain the surrounding community's support (Gurciullo, 2014:4; Bers, 1970:9).

In contrast, the sought-after function of money laundering is motivated by a desire to hide illicit funds (Gurciullo, 2014:4; Bers, 1970:9-10). OCGs need to disguise the nature of their ill-gotten gains to appear as if legally earned—this requires money laundering. Money is laundered through various methods, most often involving a legitimate business (Teichmann, 2017:133). Some money launders buy goods, such as art, diamonds or antiques, with their illicit proceeds, thereby converting them into usable or marketable assets. The alternative often involves the infiltration of a legitimate business (Teichmann, 2017:134; Cowdock, 2017:16; Bers, 1970:68).

5. Findings

Criminal opportunities are pursued across the entire economic sector. An OCG's participation in a legal market infects the healthy market; criminality becomes an infectious agent, leaving the market ill and contagious. Fortunately, the infection will only spread if the OCG deems infiltration of the susceptible legal market as feasible and beneficial in furthering their illicit actions.

The overall action of infiltration is complex, and any countervailing combatting and preventative actions will need to follow suit. Insight into infiltration methods and motivations (drivers) serve to better equip those tasked with addressing the infiltration virus.

Several factors, concurrently or interdependent, can influence the OCG's decision to infiltrate:

- Infiltration method
- The OCG's structure and nature
- Underlying driver/motivation

Infiltration method

If a suitable infiltration method is available, the OCG will most likely attempt to capitalise on the related criminal opportunity. However, availability cannot be separated from ability—the OCG needs to have the necessary tools and resources.

Also, the target's susceptibility or willingness to be infiltrated may play a defining role in the overall decision and the choice of method. This is because the OCG will aim to choose an appropriate infiltration method. If an unsuitable method is employed, infiltration may fail or be less effective. For example, if the OCG uses exploitation to infiltrate a business that is open to a mutually beneficial arrangement, some criminal opportunities may be lost.

Structure and nature

The OCG will consider the type of coordination the infiltration process would require and their inherent coordination type. For example, hierarchical coordination, where orders come from above, may have limited reach outside its territory.

The type of relationships between participants would also be considered, specifically when existing resources are insufficient, and new participants are required. OCGs with concrete, clearly defined roles (such as family-type mafias) will approach collaboration or recruitment differently than a network of loose associates because the structure speaks to the OCG's predisposition to forming new relationships. An ad hoc network tends to be less rigid than hierarchies in collaboration and recruitment as hierarchies often require pre-existing connections.

The OCG (apart from decentralised networks) can also consider the community. For example, how successful infiltration of the target may bolster or weaken the community's perception of the OCG. Alternatively, the target's location can be pivotal; infiltration may be unfeasible or too risky in another OCG's territory.

Underlying drivers (motivation)

Infiltration is a multifaceted process where the underlying deficit or unmet need serves as the driving force. The magnitude of this need can be considered during the OCG's assessment of the infiltration opportunity; the more urgent the need, the stronger the motivation (driver).

Motivations are diverse and case-dependent but can include money laundering, legally generated profit, or profit in general. Alternatively, the OCG may want to conceal their criminality or gain cultural or social significance in the community. Similarly, power (influence) is also sought after in both the criminal and legal spheres. Power expands the selection of criminal opportunities and increases the probability of success in attempts at seizing such openings. This is due to the influence granting the OCG more resources (or more readily access to it), strengthening the ability to infiltrate.

6. Conclusion

Infiltration by OCGs, due to its covert nature, resists detection and can be challenging to prevent or address. This is largely attributed to the element of deception—disguising the illicit as the licit. Furthermore, the ever-changing world markets and increased complexity in OCG structures and tactics exacerbate identifying criminal opportunities.

Almost all legal markets, especially grey markets, can fall prey to predation by OCGs through infiltration. The duality of grey markets allows the OCG to mix the illicit with the lawful operations without immediately raising suspicion. Therefore, increased scrutiny by law enforcement, as well as private business owners, is required. The methods discussed in this article should be considered, in combination with the drivers and general thinking-process behind infiltration, when assessing risks of infiltration or criminal opportunities. For effective prevention, businesses need to understand how and why these criminal groups pursue infiltration. Effective mitigation is possible through tipping the scale so the required effort to infiltrate (risk of failure) outweighs the potential benefit the OCG may reap.

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CHAPTER 4 (ARTICLE 2)

The South African illicit cigarette trade: Smoke signals for reform?

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The South African illicit cigarette trade

SMOKE SIGNALS FOR REFORM?

South Africa's illicit cigarette trade (ICT) is not merely large and growing but outperforms the legitimate sale of tobacco products. It is operated by extensive criminal networks, deprives the state of tax revenue and, although the measures are in place to curb the problem, they are proving to be unequal to the task. The inability of South African authorities to effectively regulate this grey market (where the legal and illegal coincide) paired with its outdated approach is the kindling that feeds this illicit trade's flame. This article describes the current scale and nature of the ICT and evaluates the attempts to combat it in South Africa. The article concludes with recommendations on measures the state, commerce and legal authorities could take to confront the problem with a reasonable chance of success.

INTRODUCTION

South Africa is the first country where illicit cigarettes outperform their legal competitors in terms of sales.¹ These cigarettes form part of the broader illicit tobacco trade (ITT) due to their prohibited distribution, sale and manufacturing, or applicable taxes not being paid.² In South Africa, the illicit cigarette trade (ICT) continues to grow and is estimated to cost the government over ZAR 7 billion in lost revenue every year.³

High taxation and cumbersome regulations, coupled with ineffective law enforcement, are some of the root causes of the expanding illicit trade.⁴ Nevertheless, tax-based interventions, such as increases in excise tax, remain the standard approach to regulating the tobacco trade even though possibly ineffective.⁵ Furthermore, mainstream rhetoric on curbing the South African ICT is almost entirely based on taxation. This article addresses this issue by providing a holistic view of the market.⁶

As perceived by criminals and opportunists alike, the risk associated with ICT-related crimes is "acceptable" when compared to the potential profits.⁷ These perceptions contribute to the success of the ICT, which is presently estimated to make up more than 30% of the total tobacco market. Citizens see participation in the trade as a tax-saving, money-earning tactic, often with only minor consequences (in terms of penalties or facing social judgement). The current approach at regulation does little to dissuade such tactics, as illustrated during the COVID-19 pandemic. South Africa temporarily prohibited the sales of legal cigarettes, which led to a massive surge in the ICT, most notably as friends and family stepped in as alternative suppliers.⁸ Opportunistic neighbours and family members, alongside the recently unemployed, have readily joined the ICT, with little fear of retribution (especially socially).⁹ Thus, the question that arises is what needs to be done or changed to combat South Africa's ICT more effectively?

In this article, the necessary context is initially created by describing the current scale and nature of the ICT and evaluating South Africa's attempts at legislation to combat the ICT (or regulate the associated legal trade). Our interdisciplinary evaluation of the ICT forms the basis for recommendations that consider best practice measures alongside contributing drivers, such as socio-economic factors. This article concludes with recommendations on measures that the

state, commerce and legal authorities could take to confront the problem with a reasonable chance of success.

PROFILE: SOUTH AFRICAN TOBACCO MARKET

With a population of almost 60 million, South Africa has over 7 million smokers, consuming an average of 27 billion cigarettes annually.¹⁰ However, South Africans are not just consumers. Commercial tobacco farming also takes place, although on a small scale, with 620 farms on 4 700 hectares of land. The tobacco industry is credited with employing over 108 000 individuals and contributes (by way of tobacco taxes) on average (for the 2019/20 financial year) R40 million per day to the fiscus.¹¹

Tobacco products are divided into two classes: FCT (flue-cured tobacco), mainly exported for use in cigarettes, and ACT (air-cured tobacco), which delivers snuff and pipe tobacco.¹² These products can be either unprocessed or processed. The latter refers to the end of the supply chain where retailers or suppliers (such as *spaza* shops) sell FCT and ACT to their consumers. The unprocessed leaf is sold to farmer co-operatives and tobacco wholesalers. These products are primarily (90%) sold to The South African leg of the listed British American Tobacco (BATSA), which employs 2 100 of the 108 000 South Africans who work in the tobacco trade.¹³ BATSA, and other multinationals, have extensive influence (and thus power) in the community.

The South African market's context shifted in 2010.¹⁴ A spike in local manufacturing saw a steady decline in the market share of multinational companies (such as BATSA, the unchallenged price leader); this was due to lower-priced brands, including Gold Leaf Tobacco, offering the South African community more attractive alternatives.¹⁵ Multinationals that had previously possessed such pricing power inadvertently reduced smoking prevalence from a third of the adult population to a fifth thereof between 1994 and 2010 due to drastic price increases. This increased market share changed the competitive environment allowing small firms to offer substantially cheaper products while also reducing the power of multinationals to raise retail prices.¹⁶ This change in consumer behaviour also benefited the ITT.¹⁷

This illicit trade further poses a multi-dimensional threat to South Africans:^{18; 19}

- ITT threatens public health by opening the market to consumers, previously deterred by high prices or lack of availability (specific brands or types).
- The youth and poor are especially susceptible to the lure of the ITT's low prices. The poor are also disproportionately impacted, as their high consumption exacerbates poverty and tobacco-related diseases.
- The ITT negatively impacts public welfare by *inter alia* decreasing tax revenue and subsequent investments in programmes such as employment schemes. Consequently, combatting the ITT, and related corruption and organised crime groups (OCGs), could improve governance, overall tax administration, compliance and enforcement capabilities.
- The ITT provides the tobacco industry with the opportunity to spread misinformation (distorted facts and inflated estimations of the ITT). This can be used to sway public opinion and unduly influence public policy (specifically related to health and excise tax initiatives).

The number one seller in South Africa is the Remington Gold brand (manufactured by Gold Leaf Tobacco Corporation), which 89 % of the time retails below the tax threshold.²⁰ Cigarettes sold at a price below the minimum tax threshold form part of the ICT. Thus, one method for a consumer to identify an illicit packet is by considering the price.²¹

As a result, based on its below-threshold price, almost 90% of the top-seller's sales could be regarded as illicit.²² Some of these packs are priced as little as ZAR 5.00, with popular loose (single) sticks selling at ZAR 0.50 each.²³ Consequently, South Africa has become the first country where an illicit cigarette is considered the biggest seller in the tobacco industry.²⁴

Additional or alternative identifiers of illicit cigarettes include lack of health warnings or the diamond-shaped excise markings, 'reduced ignition propensity' not appearing on the pack, missing or incorrect help-line numbers, and readings exceeding 12 mg tar or 1.2 mg nicotine.²⁵ All these identifiers, specifically pricing, are, to some extent, an indication that costs were spared at the expense of best practice requirements and to the detriment of smokers' wellbeing.

Naturally, companies are enticed to explore more profitable avenues, even in South Africa, where production costs can be as low as ZAR 2.00 per 20-pack.²⁶ South African companies are primarily

responsible for producing 'genuine' contraband as opposed to counterfeit goods.²⁷ The former refers to cigarettes (cheap whites) produced by registered brands in registered factories; its illicit nature comes from the subsequent tax evasion.²⁸ This illustrates how the legal and illegal are intertwined within the ICT.

DRIVERS FOR SOUTH AFRICA'S ICT

The ICT results from demand (from smokers) and supply (from legal and illegal manufacturers). Smokers are generally attracted to the ICT as it offers cheaper cigarettes, specialist brands, or otherwise unavailable types. Likewise, existing suppliers normally enter the ICT to maximise profits and increase their market share.²⁹

Furthermore, individuals may engage in illicit trade when legal markets are blocked and social institutions are weak. Inequality and economic deprivation could, in turn, lead to crime as citizens aim to alleviate poverty. Alternatively, law enforcement's low prioritisation of deterrence efforts may attract illicit opportunists (such as OCGs).³⁰

The related environment's context may create opportunities that are enticing for illicit role-players looking to expand.³¹ Such catalysts or drivers can be classified as either price or non-price factors. Non-price factors often relate to the context in which the illicit market is operated; the strength of the regulatory frameworks influences it, including the social acceptability of the illegal practice and the prevalence of the informal distribution channels. Naturally, price factors relate to elements that directly impact the price of the underlying goods.³²

Existing literature differs on the identified drivers; for example, Aziani, Calderoni and Dugato note lower affordability of licit products, proximity to cheap cigarette source countries, high-income inequality, large population, and the prevalence of illicit cigarettes in neighbouring countries.³³ The study also states the importance of non-price factors such as the ease and cost of operating in the country, the probability of being caught, subsequent punishment, levels of corruption, and the sophistication of criminal networks.³⁴ Almenar, Sánche and Sapena's study considers the tax burden, enforcement capabilities, labour force traits, regulations, trust in government, and morality.³⁵ Other studies focus on inflation, the strength of the licit sector (including the strength of official institutions), the country's Gross Domestic Product (GDP), opportunities for sub-

contracting to the illicit market, incentives to seek cheaper alternatives, and the opportunity cost of producing underground.³⁶ The World Bank Group (WBG) concludes on drivers including corruption, ineffective tax administration, weak enforcement and judicial systems, and access to the illicit market (for example, via OCGs), the expected benefits offered by the ICT, and the ICT in bordering countries.³⁷

This study will focus on both price and non-price factors deemed most appropriate in the South African context.

Price factors

Taxation

From February 2021, South Africa levied a tax of ZAR 21.40 on a 20-pack of cigarettes, the highest tax rate (52%) among the Southern African Customs Union (SACU) member countries. However, while close to the world average, South Africa's tax ratios are still far below the recommended best practice of at least 70%.³⁸ Consequently, cigarettes in the South African region retail at a price that is low compared to the international community.³⁹

However, the success of a taxation strategy is not necessarily indicated by tax rate levels but rather the effectiveness of underlying tobacco control policies. Filby identified barriers that hinder the success of South Africa's tobacco taxation systems. These barriers predominantly relate to a lack of consideration during the establishment or increase of taxation. South Africa's policymakers appear to ignore the price and income elasticity of the demand for tobacco products and fluctuations in household income.⁴⁰

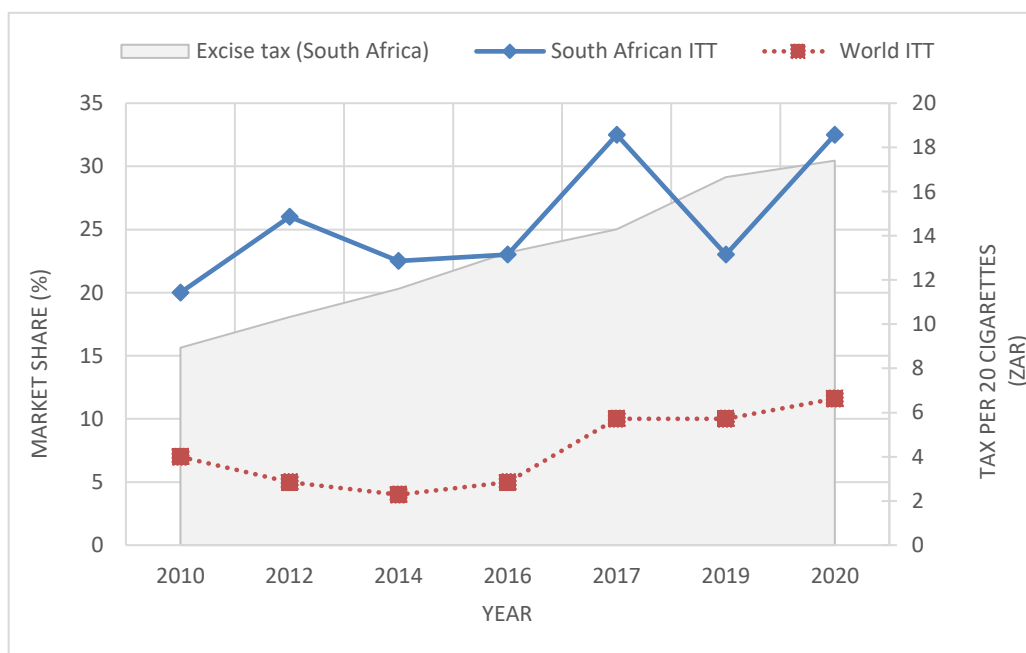
Furthermore, South Africa's taxation policy offers deferred payment of duties, whilst the other SACU countries require payment at the time of declaration. This creates the opportunity for tax evasion due to over-reliance on tobacco companies for self-declaration, coupled with insufficient audit resources to do the necessary follow-up.⁴¹ South Africa also provides for a duty-free allowance of 200 cigarettes, 250-gram pipe tobacco and 20 cigars.⁴² These sales can erode the effects of tax and price measures that reduce the demand for tobacco products. It also opens another portal for exploitation, specifically by foreign diplomats who buy these products, only to resell them later.⁴³

However, external factors can also influence a policy, such as powerful multinationals and their political clout. Filby explains that 'the current taxation strategy is based on a formula that gives the tobacco industry significant power in determining the quantum of the excise tax change'.⁴⁴ Thus, another facet that warrants attention is the tobacco industry interference. The power granted to the multinationals (influence over the taxation strategy) inadvertently influences the related public health strategies (aimed at reducing smoking), representing a conflict of interest.⁴⁵

Another cause of concern is that a price-focused taxation strategy may also have inherent flaws. A positive correlation between higher price (higher taxation) and increased consumption of smuggled cigarettes can be drawn.⁴⁶ Thus, increasing cigarette prices through taxation, which forms the foundation of smoking reduction policies, could stimulate the related illicit market.⁴⁷

Figure 1 plots the South African ITT against the excise tax on a 20-pack of cigarettes at the specific period. Additionally, the international ITT is indicated to account for the general trajectory of the ITT.

FIGURE 1: ITT growth comparison⁴⁸



Recent literature has indicated that increased taxation does not necessarily result in a higher ITT presence.⁴⁹ According to Thinnng and Nor, 'numerous studies have also debunked the purported claims made by the tobacco industry about high taxes and prices as the primary determinant of illicit cigarette trade'.⁵⁰ Also, the complexity of the drivers (factors) behind the ICT would most

probably indicate that suggestions of drastic price changes would not result in an equally drastic shift in the ICT. This phenomenon is seen in Pakistan and New Zealand.

In 2018, a 20-pack retailed for approximately ZAR 5.23⁵¹ (RPK 48.00)⁵² in Pakistan, with the ICT's share of the cigarette trade being about 35%; New Zealand sold a 20-pack for ZAR 218.55⁵⁰ (NZD 23.90)⁵¹, and its ICT represented less than 5% of its market.

Consequently, the ICT (and, by effect, the broader ITT) may not only be a result of market forces. Exploring non-price factors, such as the existing legal frameworks and the fear of punishment, could prove valuable.⁵³

Non-price factors

Geography and politics

South Africa is the main destination country of illicit cigarettes smuggled from source points, such as Zimbabwe.⁵⁴ Neighbouring countries (e.g., Lesotho) have customs and excise controls that are perceived to be relatively weak. Thus, these countries can be used as a destination market for roundtripping, which involves creating fake destinations (exports) for products that are kept and most probably sold locally.⁵⁵

Roundtripping involves, for example, cigarettes that are exported tax-free from South Africa to Lesotho and then smuggled back into South Africa. Alternatively, cigarettes are declared for export to Lesotho but diverted back to the local South African market before exiting the country. These illicit cigarettes can subsequently be sold on the local market without paying duties.⁵⁶

The extensive South African border (1840 km in length) poses an enforcement challenge as it is estimated to have around 96 illegal points of entry, of which more than half are with Zimbabwe.⁵⁷ Therefore, border provinces (or points of entry) generally face a higher risk of being used for smuggling operations, whether to facilitate physical transport or be used as a false destination on paperwork. The Beitbridge border (between South Africa's Limpopo River and Zimbabwe) is a significant gateway for tobacco contraband.⁵⁸ South African seizure data indicate that Zimbabwe's Savanna Tobacco company produces the contraband.⁵⁹ This contraband includes the

Pacific Cigarette Company and Gold Leaf brands, which produces the most popular seller in South Africa's ICT.

The contraband enters South Africa (from Zimbabwe) through two general smuggling operations: small-scale entrepreneurial operations or organised smuggling networks (some enjoy political protection). The small-scale operations use informal border-crossing points in the bush, which are abundant at the abovementioned Limpopo River border. These points of entry are crossed by runners (mostly unemployed men) between midnight and 03:00 a.m. These runners use backpacks or plastic bags to transport the contraband, and when border patrol officials are encountered, a bribe is often offered to avert any scrutiny. This method of smuggling has become more popular due to the installation of truck scanners. This led to an increase in the unwillingness of some *malaityas* (cross-border transporters) to risk discovery. However, for some, the risk is outweighed by the potential profit; therefore, smaller vehicles, such as cars that are only subjected to sporadic searches, are rather used.⁶⁰

Tactics employed by cigarette smugglers habitually include hiding contraband in secret compartments of their vehicles. For example, truckers defray their costs by smuggling cigarettes instead of completing their trip with an empty container. In addition, organised smuggling networks employ corruption and political connections, ensuring that the illicit consignment reaches its destination, such as spaza shops (small general dealers).

A cartel operating between Durban and Harare employs political connections to ensure that the contraband trucks are not searched even when entering through a formal border crossing. This highlights the claims made by some multinational manufacturers, who control 80% of the world tobacco market, that up to a third of their cigarettes 'go missing' somewhere along the supply line.⁶¹ Examples include Savanna Tobacco⁶² and Amalgamated Tobacco⁶³.

Similar to the powerful tobacco manufacturers, the ITT is said to occupy a prominent place in politics due to the broader market's great fiscal contributions (through paying taxes). These tax-contributors (multinationals) are granted a seat at the table, which often coincides with power over policy and enforcement decisions. Therefore, conflict, explicit and covert, violent and non-violent, over who profits most and controls the ITT is the main feature of South Africa's political economy.⁶⁴

South Africa has a history of accommodating these powerful, private multinationals and high corruption levels throughout the tobacco control process.⁶⁵ Therefore, it may be argued that entrepreneurs go underground not necessarily to evade tax but rather avoid bureaucracy and corruption.⁶⁶ Profitability, as per usual, also serves as a driving force, especially for local manufacturers.

South Africa produces 60% of its illicit cigarettes locally. The local production makes the cheap cigarettes on offer even more inexpensive and more attractive as a substitute, leading to higher profits for the producers.⁶⁷ The choice by producers to converge with the illicit is justified, according to Mr Yusuf Kajee, the chief executive at Amalgamated Tobacco. He explains that otherwise, South Africa does not profit because of the low average selling price of ZAR 40.00. Royalty payments to foreign brand-owners are ZAR 15.00, while excise tax amounts to ZAR 21.40; what remains is ZAR 3.60, which still needs to cover VAT and production costs.⁶⁸ The option to simply raise the selling price is not necessarily feasible due to the harsh reality that South Africans face poverty.

Socio-economic context

The average South African smoker faces socio-economic difficulties, as South Africa is plagued by high rates of poverty, social inequality, unemployment, and public service access disparities.⁶⁹ The extent of the country's unemployment and consequent poverty (key drivers of illicit economic activity) is illustrated by the expanded unemployment rate of 42.6% in late 2020.⁷⁰ In certain countries, particularly developing nations such as South Africa, these socio-economic factors (poverty and inequality) may act as catalysts for crime.⁷¹ Therefore, improvements in household income may significantly reduce smoking, especially among young adults.⁷² Nevertheless, poor South African consumers may shift their behaviour towards seeking cheaper goods and alternative employment – needs that the illicit market strives to satisfy, especially in a globalised economy.⁷³ Therefore, generally, at the core of the shift lies either a need for income or a persistent smoking habit.

Social and cultural norms

Individual characteristics are important in explaining the probability and intensity of smoking habits.⁷⁴ Various studies have researched the general social and cultural norms applicable to smoking habits. These trends include:

- Drinkers are more likely to smoke than non-drinkers.⁷⁵
- Women are between 14% and 17% less likely to smoke than men.⁷⁶
- There is a strong and consistent trend in smoker age, with older smokers more likely to purchase cheap cigarettes.⁷⁷
- The average price paid by men is often higher – possibly the norm is that men provide cigarettes to women, similarly to contexts where the man is expected to pay for bills.⁷⁸
- Nonetheless, a larger proportion of South African women buy cheaper cigarettes than men at all price thresholds.⁷⁹
- Sharing cigarettes with peers may increase smoking intensity, as sharing is often done within a specific social context. Smoking becomes a social event, which creates the expectation that the smoker will join in and be offered a cigarette if they cannot buy it themselves.⁸⁰
- Religious conscious individuals are less likely to smoke.⁸¹
- It is less probable for married smokers than for unwed smokers to purchase cheap cigarettes.⁸²
- More educated smokers are less likely to purchase cheap cigarettes and smoke, which may result from increased exposure to information on the related health hazards; this is also the case in townships.⁸³ Thus, individuals with secondary and tertiary education are generally less likely to smoke than those with no formal education.⁸⁴

Policies aimed at tobacco control do not necessarily result in initiatives to decrease the prevalence of smoking. Nevertheless, the regulatory framework can influence the manner and size of participation in the ICT, as its weaknesses or shortcomings could be what creates room for the ICT.

Local regulation

Within South Africa, the main legislation aimed at addressing the ITT is the Tobacco Products Control Act 83 of 1993 (hereafter TPC Act); as amended, it dictates, among other things, tobacco advertising, smoking restrictions, packaging and labelling.⁸⁵ Regulations were also issued under the TPC Act regarding signage (required to display price and health warnings).⁸⁶ This act was last amended by the Tobacco Products Control Amendment Act 63 of 2008 to align South Africa with the World Health Organisation's tobacco control framework (discussed below).

South Africa's legislation was thought to be one of the most comprehensive at its time of implementation. However, even with the relatively recent amendments, the tobacco-control measures are currently falling behind compared to other nations.⁸⁷ The legislation aimed at combatting the ITT is not as robust as it should be, as it often imposes outdated measures (e.g., the archaic diamond excise stamp that has been in use since the 1970s).⁸⁸

However, it should be acknowledged that South African regulation does not operate within a vacuum. Several region-specific challenges are also faced by those attempting to effectively implement the admittedly limited controls.

Other considerations

The Southern African region also faces region-specific threats: single cigarettes stick sales (which drastically decreases chances of traceability); an exorbitant manufacturing wastage allowance (from 5% to 20%, while international standard practice allows none); and significant sales in prisons (a destination market that remains unchecked and unmeasured, thus unregulated).⁸⁹

Following these price and non-price factors, the current best practice measures also need to be considered before attempting to compile reform recommendations.

INFORMED REFORM

South Africa signed the World Health Organisation's Framework Convention on Tobacco Control (hereafter WHO FCTC) in 2003 and ratified it in April 2005.⁹⁰ This global convention, read along with the first protocol thereto, the Protocol to Eliminate Illicit Trade in Tobacco Products

(hereafter ITT Protocol), prescribes several best practise measures. The ITT Protocol, undersigned on 10 January 2013, is yet to be ratified; therefore, South Africa remains non-compliant.⁹¹

Ratification grants "the necessary time-frame to seek the required approval for the treaty on the domestic level and to enact the necessary legislation to give domestic effect to that treaty".⁹² Consequently, at the core of many tobacco control issues lies poor political will to properly legislate the issue and provide resources to combat ICT.

South Africa's response to the ICT is measured against some of the best practice measures, each prescribed in an article of the ITT Protocol. In **Table 1**, South Africa's performance in licensing, due diligence, track-and-trace technology, record-keeping, and contraband destruction is evaluated.

Table 1: Evaluation of specific South African tobacco control practices

<i>ITT Protocol reference</i>	<i>South Africa's performance</i>
<i>Art. 6:</i> <i>Licensing</i>	Licensing across the supply chain, as recommended, is not required; it only applies to manufacturers and importers.⁹³ Physical compliance review processes have been unsuccessful due to the contact between the inspectors and the business owners. Thus, fraud and corruption opportunities arise.⁹⁴ A licence to manufacture is awarded after undergoing a vetting process. This process may be susceptible to corruption and can be used for extortion (threats to revoke a license or not award it).⁹⁵
<i>Art. 7:</i> <i>Due diligence</i>	No obligations to conduct know-your-customer checks during license vetting are performed, as proposed. This would include identifying the bank accounts intended for use and performing criminal background checks. Assessment of whether orders correspond with the demand in the intended destination is also not mandated.⁹⁶

<i>Art. 8:</i> <i>Tracking and tracing</i>	South Africa's diamond-shaped excise stamp is a simple ink impression placed upon packs (rather than the suggested affixed paper tax stamp or banderol-based stamps). The number of stamps is not kept record of, and the mark itself is easily forged. Additionally, it provides no assurance that the pack is genuine, the applicable tax has been paid, and its origin can seldom be confirmed.⁹⁷ Efforts have been made to draft legislation, but with no noticeable progress.⁹⁸ Furthermore, about a third of South African smokers buy single sticks, which poses another hurdle altogether.⁹⁹
<i>Art. 9:</i> <i>Record-keeping</i>	Proper record-keeping would require all licensees to provide general information, on request, of market volumes, trends, quantities of tobacco products and manufacturing equipment. Also required is information regarding the movement and inspection of such products.¹⁰⁰ South Africa's ineffective tracking and tracing system create opportunities to obfuscate figures or simply lose track of the tobacco products.
<i>Art. 18:</i> <i>Destruction of contraband</i>	In South Africa, a representative body of the tobacco industry is often tasked with the destruction of seized tobacco products. This directly contradicts the WHO FCTC, which recommends that an independent regulatory authority should be given this task rather than the tobacco industry itself.¹⁰¹ However, the South African Revenue Service (SARS) are also actively shown to be destroying contraband, which could satisfy the recommendation.¹⁰²

LIMITATIONS

A literature study was conducted; therefore, this article has the inherent limitation of being based upon secondary sources. The reliability of findings was verified (where possible) through cross-referencing and verification with other sources from credible sources (such as peer-reviewed articles). Verification through interviews was not attempted, specifically due to the covert and

criminal nature of the ITT. However, a comprehensive, holistic approach was followed by gathering multidisciplinary sources from various recognised international institutions.

CONCLUSION AND RECOMMENDATIONS

Controls may only be deemed effective if they are matched with successful enforcement and the prosecution of offenders.¹⁰³ In South Africa, the core of the ICT challenge lies in the state's inability to effectively regulate this grey industry, where the illicit and legal habitually overlap.¹⁰⁴ The existing regulatory framework was examined to identify gaps and possible remedies in the form of recommendations. These recommendations consider best practice measures alongside relevant contributing factors, providing a holistic reform proposal with a reasonable chance of success.

In an interdisciplinary evaluation of the ICT, the underlying drivers (both price and non-price factors) were explored. The price factors were distilled into a single consideration, namely taxation. Some regard taxation on cigarettes as the most effective control policy to limit cigarette consumption. However, many smokers (excluding the poor) do not concern themselves with the amount of tax paid for their habit.¹⁰⁵ Additionally, the practice of self-declaration for duty payments and duty-free allowances still leaves room for exploitation, as illustrated recently in the media (they reported the abuse of these provisions by diplomats).¹⁰⁶

Non-price factors – geopolitics, socioeconomics, social and cultural norms and local regulation – are considered in some studies as being more relevant than price.¹⁰⁷ As an illustration, South African geopolitics indicate a precarious relationship between Zimbabwean producers and South African consumers. The Beitbridge border crossing's reputation as a contraband gateway is reaffirmed by investigating reports of smuggling operations (of OCGs and on a smaller scale).¹⁰⁸ However, the literature is clear that 60% of South Africa's illicit cigarettes are produced domestically.¹⁰⁹ Therefore, improvement of supply management, especially through more effective regulation of the producers, should be a priority. It could place pressure on the artery that supplies illicit cigarettes, thereby cutting off blood to the hand that serves illicit customers.

South Africa faces multiple socio-economic difficulties, such as high rates of poverty and unemployment. These circumstances drive poor South Africans towards seeking cheaper goods

and alternative employment, both of which the illicit market can satisfy.¹¹⁰ Furthermore, a lack of education of consumers compounds the attractiveness of smoking, which drives the ICT.¹¹¹ Health initiatives aimed at reducing smoking prevalence by emphasising the habit's health hazards may have potential.

The existing South African legislative framework, primarily the TPC Act (last amended in 2008), is not keeping up with the ever-changing ITT. Its various stipulations are progressively outdated and of limited effect; for example, identifying points-of-origin or destinations of illegal goods may not be effective. Consequently, reform is no longer a nice-to-have but a necessity if South Africa is to regulate the tobacco trade.

Participants in the ICT are not afraid of the potential consequences of their participation in the business, such as penalties or social retribution. Thus, a lack of fear due to the perception of this illicit market further entices those looking to generate low-risk profits, which includes OCGs.¹¹² Efforts to increase the perceived risk associated with participation in the ITT may thus also prove effective.

Therefore, the refashioning of the ICT's image to better align public perception of the trade with its definite criminal nature is proposed. Success in the tobacco trade can encourage the commissioning of crimes or forming alliances with illicit market participants.¹¹³ Crimes such as corruption, money laundering, racketeering and fraud are often the results of efforts by enterprises (including the multinational tobacco producers) to increase profits.¹¹⁴

Therefore, tax evasion should not be the main penalty associated with the ICT. This would serve two purposes:

- The perceived risk of participating in the trade would increase if participants were seen to be more severely punished—conviction of tax evasion results in a fine or a maximum of five years imprisonment. Instead, alternative charges should be imposed, including racketeering and money laundering (30 years imprisonment or a ZAR 100 million fine). The ITT is less attractive with higher penalties and stricter legislation, as demonstrated by Italy and Spain.¹¹⁵
- The prevailing public consensus is that the biggest problem caused by the ICT is the loss of tax income.¹¹⁶ If the ICT's image can shift more towards that of the face of organised crime, the

public's perception could also change. The public may perceive financial crime (tax evasion in this case) as victimless, whereas organised crime inherently conjures up cinematic images of dangerous mafias.

Reform efforts should focus on consumers and address those factors that enable or strengthen the tainted manufacturer's positions in the tobacco trade. Efforts to address worrisome political connections between tobacco role-players and those tasked with regulation should receive attention.

It is recommended that the tobacco industry be scrutinised to identify high-risk enterprises, participants and their relationships. For example, a red flag should be raised if politically exposed persons are involved with the management of the enterprise. The anti-money laundering field and related institutions, such as the Financial Intelligence Centre, can provide valuable guidance in this regard.¹¹⁷

Similarly, in line with the geopolitics in South Africa, the risks due to the country's geological position warrant attention. Special attention should be given to the Zimbabwean border. One option is to impose mandatory rotations of border officials, to manage the risk of having a co-conspirator in the role of a gatekeeper. The example of Kenya can also be followed by deploying additional scanners (aimed at enhancing the non-intrusive inspection of cargo at borders).

The WBG also advises the segregation of duties: 'the personnel managing the scanning function are not involved in the analysis and interpretation of the scanner images, to eliminate a motivation for undue influence'.¹¹⁸ The first prize would be automating scanning and interpretation functions, thereby removing the human element and possible undue influence.

In addition, specific actions are proposed to address the inadequacies of specific South African initiatives (including those discussed in **Table 1**). These actions are informed by international best practices as prescribed in the ITT Protocol.

- **License requirement:** Licensing across the entire supply chain should be pursued; the Canadian province of Quebec's comprehensive approach can be referenced.¹¹⁹ Adequate non-compliance penalties should be imposed on vendors and manufacturers. Additionally, the licensing process

should be secured and include due diligence to limit the risk of undue human interference (e.g., granting a license due to bribery).

- **Due diligence:** Suppliers and manufacturers must be required to perform at least basic know-your-customer (KYC) checks. Financial institutions are required by law to conduct KYC checks; such principles, tailored as required, should also be followed.¹²⁰
- **Track and trace technology:** The tender process¹²¹ to procure much-needed track-and-trace technology needs to be reinvigorated. The ability to accurately determine destinations and points-of-origin are necessary when trying to uncover smuggling networks or identify perpetrators. This process can also be pursued as part of a broader, excisable goods management system (EGMS) for tobacco and alcohol. Kenya's EGMS¹²² can serve as an example; it provides for 'production counting, tracking and tracing products, stock control, tax revenue forecasting, tax stamp forecasting and processing, account management, and the collection of other business intelligence'.
- **Duty payments:** To prevent reliance on self-declaration by suppliers, the practice of allowing deferred duty payments should be reviewed.
- **Excise stamp:** The archaic diamond tax stamp needs to be replaced with high-security markings, improving resistance to forgery attempts. Banknote features, such as covert markings, should inspire the new stamp features. Alternatively, automated monitoring systems (digital stamps automatically placed by special manufacturing equipment) can be used.¹²³ An automated system enhances record-keeping of production, as each stamp, which thereby identifies each pack of cigarettes, is recorded in a database, which can reduce tax evasion, as illustrated by the case of Brazil.¹²⁴

Following these recommendations, the emphasis of regulatory initiatives should be on supply-chain management, while educational initiatives should focus on eliciting public support and redressing the ICT in the eyes of South Africans. Relying too heavily on taxation-based policies to regulate the tobacco industry is short-sighted as it does not acknowledge the grey nature of the tobacco trade and, as recent history shows, ultimately fails to prevent the ICT from expanding.

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CHAPTER 5 (ARTICLE 3)

Targeting wildlife trafficking: A model for assessing the threat of criminal coordination in illicit wildlife markets

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Targeting wildlife trafficking

A model for assessing the threat of criminal coordination in illicit wildlife markets

Illicit wildlife trafficking spans continents and crosses oceans, fuelling international crime and destroying animal and plant populations. South Africa, a megadiverse country, considers this illegal trade a national security threat and is fighting an uphill battle against illegal wildlife markets, which it seems to be losing. This article proposes a first-of-its-kind risk assessment model to aid this fight by identifying the emerging threat of coordination in criminal natural-resources markets, specifically South African abalone and cycads. The model considers what drives criminals to involvement in the wildlife trade, alongside existing frameworks for assessing the risk of organised crime. The adopted approach aims to reveal the markets' predominant nature – coordinated or disorganised. Consequently, the perception held by market regulators and concomitant interventions can be judged for their appropriateness. The model could direct efforts to rectify misplaced or ineffective initiatives to tackle this criminal activity by indicating areas that require additional or alternative interventions.

INTRODUCTION

Illicit wildlife trade (IWT) is devastating wildlife populations across the globe as poachers, their intermediaries and sophisticated organised crime groups (OCGs) “ruthlessly pursue profit at any cost to meet consumer demand”.¹ Combating this ever-growing trade is a complex issue that requires a holistic approach and thus also demands attention from actors beyond the conservation realm.²

‘Wildlife urgently needs better protection’.³ Globally, wildlife crime is expected to increase between 5% and 7% annually, and such expansion often coincides with increased violence and a greater presence of criminal gangs.⁴ However, efforts to combat IWT are consistently undermined by a lack of resources and capabilities, and thwarted by sophisticated criminal networks.⁵ Additionally, there is a lack of research that provides insight into the participation of different criminal networks in IWT, and their specific nature.⁶

In South Africa, IWT is a national security threat due to the failure of regulatory initiatives and the questionable integrity of law enforcement officials.⁷ In May 2021, the South African government acknowledged its continuous struggle to combat environmental crimes and other emerging organised crimes.⁸ Mogomotsi and Madigele concur by stating that South Africa ‘seems unable to deal with sophisticated criminals, including poachers and wildlife traffickers’.⁹

Moreover, some existing interventions are missing the mark as they often only target those at the bottom of the pecking order – the often impoverished individuals tasked with killing or harvesting wildlife commodities.¹⁰ Combating strategies targeting the facilitators and higher echelons of the IWT world would likely prove more effective in the long term.¹¹ These actors are empowered by their connections and infrastructure, such as their supply chains that enables cross-border smuggling.¹² Therefore, knowledge of both physical and operational structures can be invaluable to countering the illegal trade.

Various factors drive the trade, such as the perceived low risk of prosecution for participation, lack of job opportunities in the legal economy for those in the vicinity of wildlife hotspots, and cultural beliefs related to the usage of wildlife products.¹³ Consequently, this illegal trade is a

multifaceted threat requiring combating efforts to be fit for purpose. These efforts must be based on knowledge of the underlying markets together with the means (in respect of available legislative infrastructure) to deal with it. This includes insight into the type of coordination involved, that is, the interconnectivity and cooperation amongst the market participants. The extent of such coordination can indicate the maturity of the market and the possible involvement of OCGs.¹⁴

Higher degrees of criminal coordination indicate networking and cooperation between different actors within a market, and are therefore an increased threat due to the merging of expertise and the expansion in the scope of their activities.¹⁵ The degree of criminal coordination present also alludes to the market's maturity, which in turn indicates its sophistication, reliability, accessibility, specialisation and resilience.¹⁶

By identifying the emergence of such criminal threats, pre-emptive measures can be formulated to address the threat or possibly prevent its escalation.¹⁷ Moreover, predictions of trends or risk assessments, in the contexts of criminal behaviour, aim to assist in determining "comparative risk levels...so that resources can be focused on those activities that pose the highest risk."¹⁸ For these purposes, and to add to law enforcement's arsenal of measures to counter IWT, an original indicator-based risk assessment model is proposed in this article.

This model considers five indicators of criminal opportunities in the illegal trade, alongside the literature on risk assessment in the field of organised crime. This culminates in indicators that are broad enough to account for the diversity in the IWT, while being specific enough to deliver relevant output.¹⁹ These five novel indicators are:

- Law enforcement attention given to the market.
- Other criminal presences in the market.
- The market's dimensions.
- Consumer demand.
- The availability of the commodity.

The proposed five-factor model is applied to two of the IWT markets in the South African context: the illegal trade in abalone and cycads. The illegal abalone market has well-established links with organised crime and sophisticated supply chains; hence, its selection for review here serves as a baseline to indicate the appropriateness of the model's application.²⁰ Suitability is illustrated by the relevance and usability of the results: Firstly, are the expected discrepancies (causes for concern) raised, and secondly, can those indications be connected to the drivers and criminal opportunities identified by other sources in the literature?

Next, the model is applied to a market which has received limited attention from criminologists: the illicit trade in cycads.²¹ This criminal activity is assessed to determine whether the existing concept of the market, that it is primarily driven by individual traditional healers and plant collectors, is accurate.²² The suitability of current regulatory measures and perceptions of the market may thereby be judged. Likewise, the results can provide direction for broader reform efforts, as it points to specific problem areas (red flags) that can be interpreted with the model's framework.

This model therefore serves as a lens through which coordination in IWT markets can be examined. Readily available (open source) information can be used to populate the framework, which should produce relevant and comprehensible results, that could aid in determining whether the market is coordinated. As a result, combating strategies can be altered to target the high-level perpetrators of IWT operations with greater efficiency, due to gained insight into their operational structures.

Coordinated versus unorganised markets

Illicit wildlife markets may be coordinated, unorganised, or a combination of both. This is exemplified by contrasting market types involved in bushmeat trade. South Africa's bushmeat markets appear mainly unorganised, whereas investigations into transnational syndicates in the European Union uncovered a highly coordinated market in Belgium.²³ Naturally, regulatory initiatives in these contrasting settings will differ because the context is different. Belgium employs border control measures and requires consignment certificates to regulate the supply, specifically because international bushmeat trading is prohibited. Additionally, the Belgian elite perceive bushmeat as a luxury, with prices well above other readily available meat.²⁴

In contrast, in South Africa, bushmeat is often consumed in rural households that hunt and consume the prey themselves.²⁵ Even though these markets have a shared product, a one-size-fits-all approach to regulation will be ineffective, as the scope and nature of criminal coordination differ drastically. Tackling an international OCG's smuggling operations will naturally require a different approach than preventing poaching by impoverished communities.

Organised wildlife crime groups

The relatively recent shift in treating IWT as organised crime, even though promising (in terms of bringing added scrutiny to IWT), cannot be viewed as a cure-all as it can overlook the inherent diversity of IWT.²⁶ Moreto and van Uhm advise that a more explicit acknowledgement of the idiosyncrasies of the underlying species and the related market is required.²⁷ However, the precise nature of OCG involvement in IWT remains a contentious issue.²⁸ Thus, further research is required that explores this nature and involvement before reaching a consensus.²⁹

The rhetoric on OCG participation in the IWT remains lacking and often misconstrued.³⁰ Generalisations include that if OCGs are involved in IWT, they are hierarchical.³¹ The intention behind designating IWT as a transnational organised crime was to thrust the trade onto the world stage – into the scrutinising spotlight that law enforcement enjoys casting on organised crime, not to serve as a mould in which to cast all IWT.³²

However, regardless of this intention, the image conjured up by organised crime is still of a somewhat cinematic persuasion (e.g., Italian mafia families or South American drug cartels).³³ It rarely strays to the image of a street vendor peddling leather goods or a traditional healer supplying miracle powders. Nevertheless, these individuals habitually form the link between the end-user and the dark world of wildlife trafficking, also regarded as organised crime.³⁴

Environmental organised crime can be categorised into three types: ³⁵

- Green organised crime: Large OCGs that diversify or shift their operations to environmental crime. For example, Chinese Triads participating in the South African abalone trade.³⁵

- Green camouflaged crime: Minor relationships are established to exploit existing smuggling routes and infrastructure. For example, Thai human traffickers supply the Asian illegal fishing market with forced labourers.³⁵
- Green opportunistic crime: Entrepreneurial OCGs capitalise on new opportunities within their existing structures or supply chains. For example, South American cartels hide cocaine shipments in fishing vessels.³⁵

The OCGs that want to 'go green' can achieve this goal through forming an alliance, pursuing a mutually beneficial relationship, or merging with a wildlife crime group. Alternatively, the OCG can transform (reinvent) its operations or enter the IWT through domination by capturing a specific market or supply chain.³⁶

Upon entry into the IWT arena or pursuing green opportunistic crime, an OCG can converge its various illegal operations. Intertwining these different kinds of crime can offer multiple benefits:

- Combining contraband (shared shipments).
- Camouflaging other commodities such as narcotics amongst wildlife products that appear legal.
- Control over multiple tradelines can increase profitability and lower operational risk if shipments can be dispersed (spread out).
- Shared smuggling routes and transportation methods.
- Enabling options such as barter trade (e.g., paying for abalone with crystal meth).³⁷
- The grey wildlife trade offers opportunities to launder money obtained from other illegal means (e.g., sale of drugs).³⁸

The supply chains in IWT frequently overlap with the legal wildlife market owing to their similar functional attributes.³⁹ Thus, OCGs involved in IWT are well-placed to infiltrate the legal wildlife market by exploiting the grey market conditions created by overlapping supply chains.⁴⁰

A grey market for green crimes

Within the wildlife trade sphere, legal and illegal markets sometimes exist in conjunction with, or alongside, one another, especially if the underlying trade is regulated rather than prohibited.⁴¹ These wildlife markets are grey because the legal and illegal limbs are intertwined. Thus, efforts to separate these limbs are needed to distinguish between what is legal and what is not; this, however, proves difficult in a grey context as the illegal may appear legal and vice versa.

The literature suggests that IWT is often more structured and entangled with its legal counterpart than current studies suggest.⁴² Those markets that appear to be legal are frequently not when their activities are properly scrutinised. Rules such as harvesting and breeding quotas and licensing requirements are often disregarded or circumvented by corruption (through bribery). Nevertheless, these superficially legal markets remain widely accepted (without stigma) because unscrupulous behaviour has become normalised and is under-prosecuted.⁴³

A recent study by the Basel Institute of Governance examined the social acceptability of wildlife trafficking. Common perceptions include: wildlife trafficking is harmless (benign), legitimate, and participation in the trade enhances status and wealth.⁴⁴ The study emphasised the perceptions about the risk of detection and penalties when determining combatting initiatives.

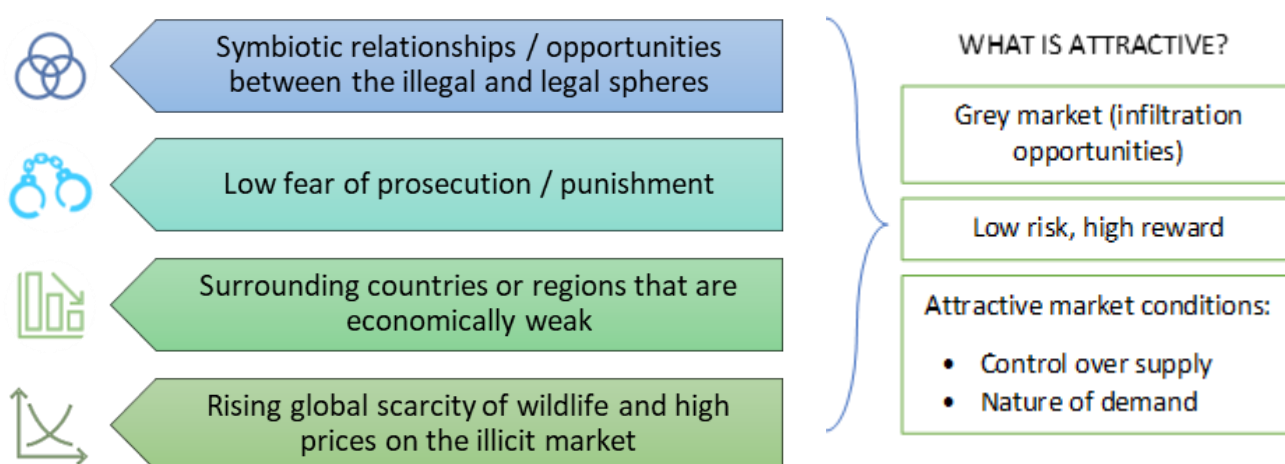
Regulatory efforts must address the legal and the illegal aspects of a grey trade as both are present and often merged, creating its muddy waters.⁴⁵ Before attempting to clear these waters, the most appropriate tools and strategies must be selected. The specific market pool should inform such a selection; for example, one should look out for crocodiles (OCGs).

Albanese also recommended this approach: “determining the risk of organised crime requires specific local assessments rather than global judgments”.⁴⁶ Thus, indicators of a market becoming criminally organised may assist in determining and evaluating the appropriateness of combatting efforts or strategies.

INDICATORS FOR CRIMINAL COORDINATION

A 10-factor model is used to assess the threat of organised crime involvement in a specific market or product through focusing on four categories (regulators, customers, supply and competition).⁴⁷ Adapting this 10-factor model to the proposed five-factor model produces indicators that correlate with criminal opportunities in the IWT, reflecting the illegal trade's vulnerabilities to predation by OCGs (see **Figure 1**). Moreover, the IWT is a predicate crime, a component of a larger crime (e.g., money laundering).⁴⁸ In addition, the proposed indicators acknowledge the high prices of wildlife products as well as the multifaceted nature of the consumer's demands.⁴⁹

FIGURE 1: IWT aspects that attract OCGs



Adapted from Wyatt, Van Uhm and Nurse⁵⁰

The IWT is attractive because it offers infiltration opportunities (due to overlapping supply chains in a grey market) and the potential of high profits for a low associated risk. Additionally, the chance for monopolisation is offered if the underlying supply is (or can be) restricted (e.g., if the OCG controls territory where an endangered, range-restricted indigenous species occurs).

Criminal organisations, like other businesses, have goals to survive and generate income while managing the limits of their supply, regulatory scrutiny and competitors.⁴⁶ This, along with the IWT's vulnerabilities, are the foundation for selecting the indicators detailed in **Table 1**.

Consequently, law enforcement's attention to the market, other criminal presences, its dimensions, consumer demand, and the availability of underlying items are examined next.

Table 1: Indicator framework

Indicator	Considerations	Related criminal opportunities	Related 10-factor model category
Law enforcement attention	▪ Reported seizures ▪ Successful prosecution ▪ Dedicated taskforce / interventions	Attractiveness of trade – low risk, high reward	Regulators
Convergence with other crimes	▪ Reported cases of overlaps with other illicit markets. - Seizures/confiscations (mixing contraband) - Operational use (used in supply chain)	Grey market conditions, with opportunities for infiltration.	Competition (scale and sophistication of similar operations)
Market dimensions	▪ Ease of participation or operations: - Regulated or prohibited market	Grey market conditions and reach of supply chains	Supply and regulators
Demand	▪ Market price (legal price and IWT price in destination markets) ▪ Intended use (nature of the demand)	Attractiveness of market – possible profit and volatility / stability of market	Customers

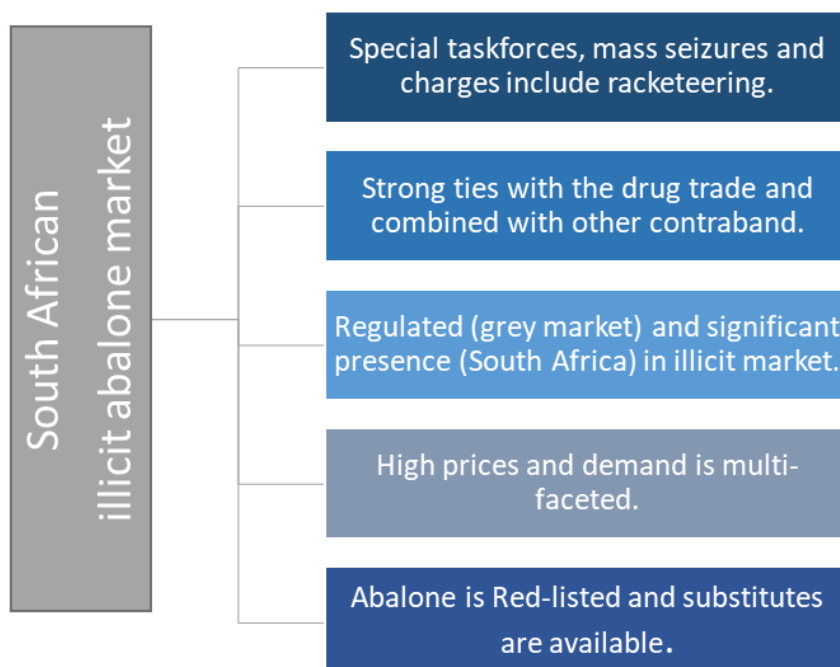
Availability of underlying item	▪ Availability of substitutes ▪ Point/s of origin	Opportunity for monopolisation or control over supply, due to scarcity	Supply and competition
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This adapted model's appropriateness is examined by applying it to the South African abalone market. Its well-known ties to local gangs and Chinese triads are long-established examples of OCGs.⁵¹ Unless stated otherwise, the term "abalone" here refers to the five South African *Haliotis* species (most prominently *Haliotis midae*).

Abalone

The model's suitability is indicated through the relevancy and value of the results generated by applying the model's indicators. Before application, context is given to illustrate the rationale behind the selection of the abalone market, as well as a brief overview of the established criminal coordination in the market (see **Figure 2**).

FIGURE 2: Summary of coordination indicators: Abalone



Law enforcement attention

Even though cycads have not received the attention of dedicated taskforces, a national project to combat cycad trafficking and multi-agency law enforcement initiative, operation FEZELA, has been active since its inception into the Working Group IV annual work plan in 2017.⁵²

Several nurseries have also launched cultivation programmes to bolster the depleting wild populations. These programmes also aim to satiate the demand of some collectors and horticulturists, mostly looking to display the cycads.⁵³

In 2017, the then South African Department of Environmental Affairs (now the Department of Forestry, Fisheries and the Environment or DFFE) issued a notice with a biodiversity management plan.⁵⁴ This plan aims to ensure the long-term survival of wild populations of 15 highly threatened *Encephalartos* species.⁵⁵ Specific objectives include determining current population status and the identification of “secure sites for reintroduction”.⁵⁶

These efforts are bolstered by the prosecution of cycad poachers, as evident through Torgersen’s summary of selected cases between 2011 and 2016. One such example is the theft of 15 cycads in 2016, resulting in a ZAR 100 000.00 fine, ten years imprisonment (suspended for five years) and the offender having to donate a portion of his farm.⁵⁷ A less severe punishment was given to a poacher of 28 cycads in 2017: four years in prison with an additional three years (conditionally suspended for five years).⁵⁸

Similarly, law enforcement has conducted many effective operations. For example, confiscations of more than ZAR 14.2 million worth of cycads (about 1 454 plants) in the Eastern Cape province between 2011 and 2016.⁵⁷ The CITES-reported international trade of South Africa for the same period involved the import of 4 870 live cycads and the export of 2 763 live cycads (12 633 plants in total).⁵⁹ Thus, the confiscations of one province represent approximately 10% of the regulated international trade’s volume – potentially evident of the illicit trade’s size.

Convergence with other crimes

A study by Bamigboye, Tshisikhawe and Taylor, conducted in 2017, identified the usage of cycad bark as a drug as one of the most prominent motivations behind poaching.⁶⁰ The stripped bark is

sniffed, smoked or crushed into a powder, mixed with other substances and consumed as a hard drug by 37.5% of the study's respondents.⁶¹ The current research on cycad bark as a narcotic is limited to the mentioned study.

This study slightly connects cycads to the world of drug trafficking, but this use of a single species' bark, in one province of the country, along with no evidence that it is being trafficked, is not deemed to signify convergence.

Market dimensions

All cycads are listed in Appendix I or II of the CITES due to unsustainable and illicit trade. CITES provides protection according to the level of extinction risk the species faces. All South African cycads (*Encephalartos spp.* and *Stangeria eriopus*) are listed in Appendix I and may not be traded internationally. Nevertheless, certain specimens artificially propagated for commercial purposes may be exported under permit; this excludes large artificially propagated *Encephalartos* specimens with a stem diameter exceeding 15 cm.⁶²

The South African cycad trade is thus regulated rather than prohibited, creating grey market conditions where the legal and illegal cycad markets overlap. Such grey market conditions are exploited by nurseries that launder illegally collected wild plants into the legal trade by declaring the contraband as artificially propagated.⁶³ Thus, regardless of the CITES-listing and decrease in the reported legal trade, cycad experts still consider illegal trade the primary threat for cycads.⁶⁴

Wittig asserts that although CITES is a valuable tool, it is not intended to combat crime; it is a trade convention with limited powers.⁶⁵ According to CITES, the discrepancy between the reported trade and the apparent decline in wild cycad populations "implies that there is a significant amount of trade that is not regulated by CITES", including "trade that wilfully bypasses CITES regulations (illegal trade)".⁶⁶

Demand

Cycads are sought-after for various reasons, most prominent for aesthetic purposes (horticultural market), the specialist collector market, and traditional medicine (*muthi* or *muti* markets).⁶⁷ For

example, in South Africa, the Zulu culture uses many *Encephalartos* cycads (referred to as *isiGqiki-somkovu*) to protect them from evil spirits.⁶⁸

The demand in traditional medicine markets is most often (82%) satiated with cycads, such as *Strangeria eriopus*, that appear on the International Union of Conservation of Nature (IUCN) Red List. Harvesting and subsequent consumption or sale is often part of the illicit trade rather than the formalised regulated trade because harvesting frequently only involves stripping off the bark.⁶⁹

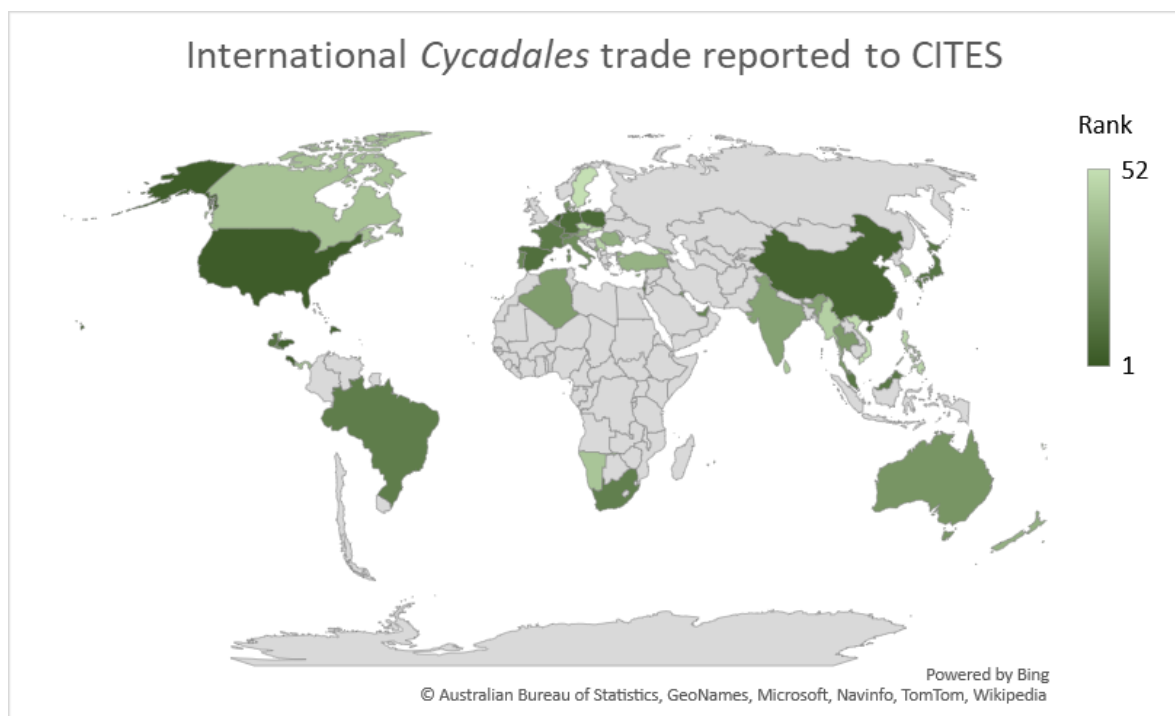
Cycads are made available to the South African public, such as Kirstenbosch national botanical garden, where buyers are selected through a lucky draw. These lucky “South African cycad enthusiasts” paid ZAR 900.00 per cm of stem, thus between ZAR 2 700.00 (3 cm) and ZAR 9 000.00 (10 cm) in 2018.⁷⁰ Additionally, South African cycads are popular – the country held the top position in the Southern African region’s regulated cycad trade due to its historical domination of exports in both volume (58% of the market) and value (91% of the market).⁷¹

Cycads are also readily available from nurseries, ranging between ZAR 1 200.00 and ZAR 40 000.00. Popular choices include the cheaper variants, such as Bushman’s River cycad and Karoo cycad, and the pricier Kei cycad (up to ZAR 16 500.00).⁷² Purchases appear to be possible through online shopping portals, such as GumTree.co.za⁷³ and OLX.co.za⁷⁴, averaging ZAR 2 500.00. Specialist collectors, however, are typically less interested in cultivated specimens since they take more than a human lifetime to grow to impressive proportions and often lack the character of their wild counterparts.⁷⁵

Availability of cycads

South Africa is a hotspot with 37 threatened *Encephalartos* cycad genus species and one of its families, *Strangeria*.⁷⁶ However, South Africa does not have the monopoly; as indicated by **Figure 3**, cycads can be found across the globe.

FIGURE 3: Approximate cycad distribution based on trade reported to CITES⁷⁷

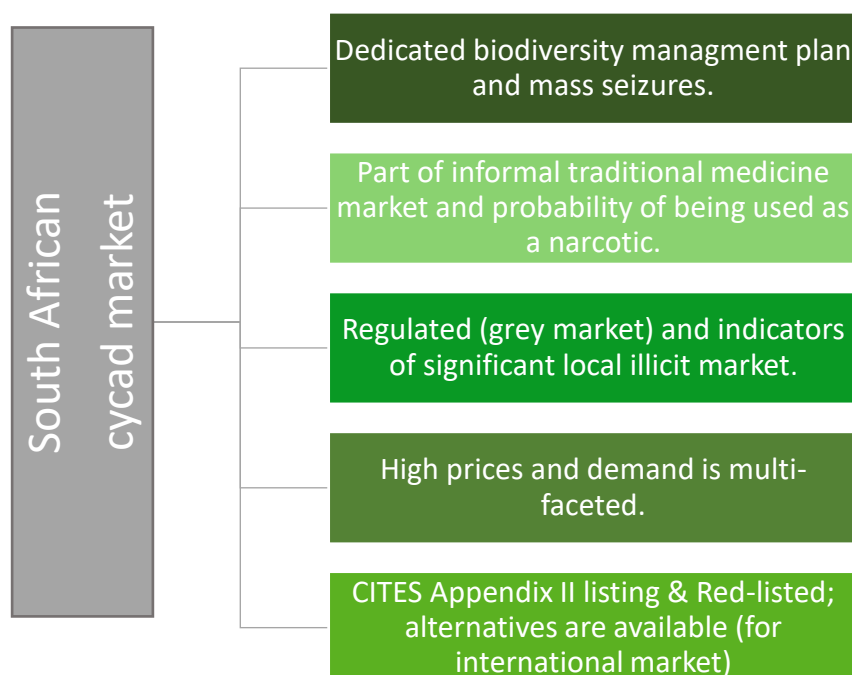


Unsustainable harvesting can decimate cycad populations due to the plants' slow growth rate.⁷⁸ Compounding the conservation problem is that the rarer a species, the more attractive it seems to be to customers. Earle and Fraser explain that a vicious cycle is created, "allowing extinction to become profitable, and ultimately forming an extinction vortex".⁷⁹

In South Africa, initiatives such as cultivation programmes (spurred on by the biodiversity management plan) aim to alleviate the pressure on the wild population. Up until 2018, such programmes supplied more than 200 000 seedlings of various species to the public.⁸⁰ Similarly, in the past, two prominent cycad exporters, Mexico and Australia, mostly used artificially propagated cycads to serve the demand abroad.⁸¹

The indicators, summarised in **Figure 4**, agree with supporting literature explaining the exploitation of cycads through a network of increasing criminalised operations.²¹

FIGURE 4: Summary of coordination indicators: Cycads



The cycad trade is attractive due to the high value of the rare plants, the lack of dedicated taskforces and a general lack of attention by members outside the conservation community. This market is also a grey market: Legal trade (with a CITES-permit) overlaps with illegal poaching, smuggling and sales.

Legal trade faces a multifaceted demand for cycad, as some wish to display the plant as a status symbol, while others aim to consume it for medicinal purposes or as a narcotic. Thus, the demand varies but has a degree of elasticity, as high prices will not deter some consumers.

Discussion: Model application

The purpose of applying the model to the South African illicit markets for abalone and cycads was two-fold: to indicate the model's appropriateness and to illustrate its potential future use.

The abalone case study generated pervasive red flags, indicating high levels of criminal coordination, such as clear trends of prosecuting participants for racketeering and abalone being combined with other contraband (such as narcotics). These results are in line with the present concept of the market and existing rhetoric (e.g., from organisations such as TRAFFIC, the WWF and ACAMS).⁸²

Similarly, the illicit cycad market shows strong indicators that the stereotypically disorganised market may have shifted to become criminally coordinated. Like the abalone trade, cycads have been seized in massed quantities, obtain high prices, and seem to be readily available and traded regardless of being endangered. Consequently, combatting strategies may need to be altered following the sophistication of the cycad market's participants and supply chains.

CONCLUSION

This article reports on a first-of-its-kind risk assessment model that can assist law enforcement and regulators in better understanding the coordination structures in South African illicit wildlife markets. The holistic examination of the selected markets can determine whether they are coordinated rather than unorganised (with mostly independent participants). This insight can be used to judge if existing intervention efforts and strategies align with the nature and level of the market's criminal threat.

A coordinated market poses an especially significant threat due to the complexity of trafficking routes and cooperation among role-players. Consequently, existing combating strategies must be adapted and updated – they are not fit for purpose if they do not account for the market's inner workings. Additionally, government and law enforcement agencies must give environmental crime the appropriate attention that goes beyond conservation concerns.

Currently, the extent and nature of the IWT threat, specifically the emerging threat posed by traditionally disorganised markets, are underestimated. 'Many individuals are doing what they can. But real success can only come if there is a change in our societies, economics, and politics.'⁸³ This article proposes a tool to help empower law enforcement agencies until the necessary changes in society, economics, and politics arrive.

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CHAPTER 6: CONCLUSION

6.1 Introduction

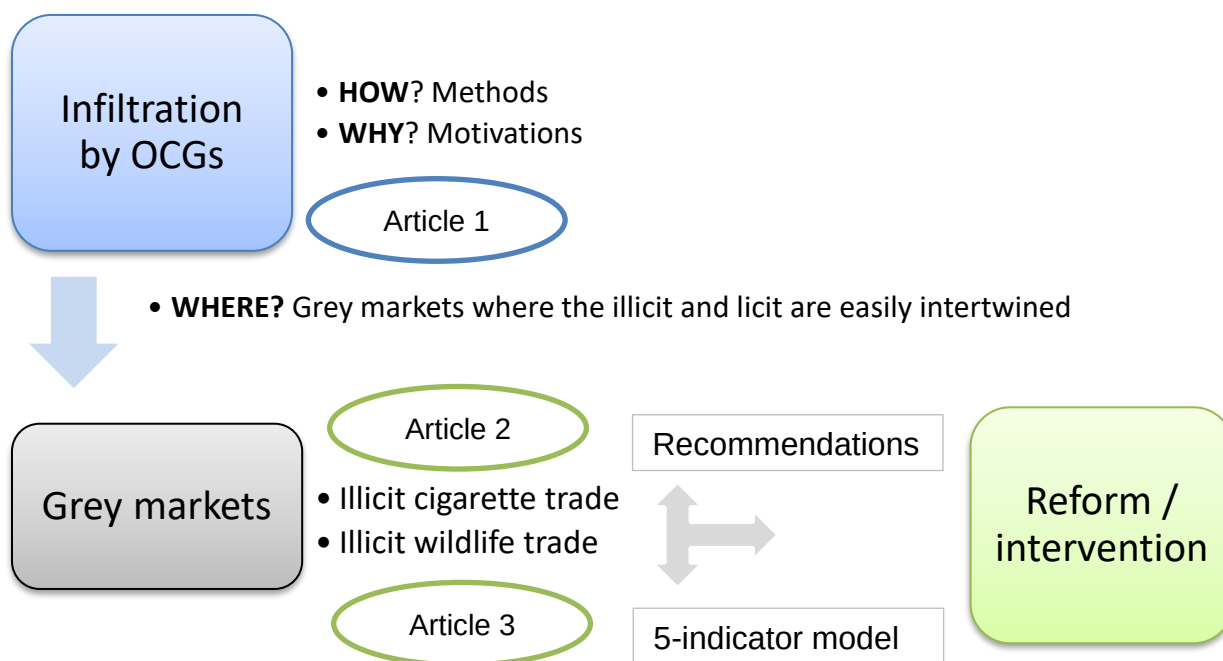
Numerous licit markets are susceptible to infiltration by OCGs due to insufficient or ineffective regulation. They can, therefore, be exploited by OCGs, which aim to capitalise on the perceived low-risk, high-reward prospects. Consequently, this dissertation aimed to critically analyse such instances of infiltration to guide possible reform of existing guidelines and regulations.

This chapter aims to conclude on the main problem statement and objective by indicating how the ancillary research objectives were undertaken, each pursued by way of a separate article:

- Article 1 - Exploring infiltration behaviour by organised crime groups.
- Article 2 - The South African illicit cigarette trade: Smoke signals for reform?
- Article 3 - Targeting wildlife trafficking: A model for assessing the threat of criminal coordination in illicit wildlife markets.

Figure 1 illustrates how each article contributes to analysing OCGs as participants in the legal economy, specifically infiltrating grey markets. Moreover, it indicates how the primary objective of suggesting how the infiltration threat may be addressed through reform was achieved.

Figure 1: Dissertation layout – Addressing the infiltration threat



6.2 Conclusion on article objectives

6.2.1 Article 1

This article's objective was to investigate the methods and drivers for infiltration of the licit market by organised crime groups. This chapter examined the infiltration behaviour of OCGs as a business decision; therefore, factors such as the surrounding community, the availability of criminal opportunities and broader implications were considered. Additionally, in the form of critical analysis, this qualitative literature study explored different classification methods to identify and describe the structural or organisational forms of OCGs.

The importance and impact of external influences, such as economic market conditions and the community (surrounding and within the group), were revealed to be significant to OCGs' decision-making processes. This is because most OCGs will have to consider and adapt to the surrounding market conditions, as they aim to serve their customers effectively. Therefore, economic signals are used to anticipate shifts in buyer behaviour, enabling the OCG to make pre-emptive manoeuvres – to capitalise on opportunities or avoid downturns. Likewise, the OCG's subculture (community) can

serve as a tool to breed honour, loyalty and respect amongst its members and potential recruits. It creates a shared identity and sense of belonging.

The relationship between the OCG and the surrounding community was also tumultuous (a love-hate relationship). A criminal group's presence can result in a precarious financial dependence on crime or create prosperity through job creation or infrastructure investment in the affected neighbourhoods.

Thus, the underlying motivation for infiltration could be to influence the surrounding community or result from or in response to external forces.

An OCG needs to establish itself within the community before exerting any influence – this is regularly achieved by infiltrating an existing business. Therefore, infiltration is pursued to acquire specific advantages, such as money, influence, control, or access to resources. Moreover, the selection of targets and infiltration methods is based on the OCG's motivation for infiltration; thus, it wants to address the underlying need.

Five distinct infiltration methods, each employing idiosyncratic tactics and with specific aims, were identified: OCGs can establish a legal foothold, pursue exploitative infiltration, conduct a monopolistic takeover, use offers of unfair advantages or symbiotic partnerships.

Pursuing a legal foothold involves making offers of resource investment, which aims to increase the OCG's influence in the community or create strategic partnerships—for example, investing in or opening up a restaurant where illegal gambling is hosted. In turn, exploitative infiltration methods involve extortion and coercion to access the target's resources, such as its infrastructure. For example, threatening to kidnap or murder family members if a bar (cash-intensive business) does not launder the OCG's ill-gotten gains.

A monopolistic takeover requires the OCG to penetrate the supply chain, which provides an opportunity for anti-competitive behaviour. For example, monopolising access to an endangered plant sought in the illicit market for its perceived healing powers. Contrastingly, propositions of unfair advantages entail the criminal syndicate' offering of unique advantages to the target to gain influence over the decision-making

process and resources. For example, a cigarette manufacturer is granted power over a tobacco policymaker, and in return, it sells the smuggling network's illicit cigarettes.

Alternatively, an offer of a symbiotic partnership can be made. This involves the target being enticed into a mutually beneficial relationship, so the OCG can expand its operations or gain access to the target's clients. For example, a hotel is approached by a prostitution ring – the hotel earns profits from room booking while offering a base for operations.

In combination with the motivations and general thinking-process behind infiltration, these methods should be considered when assessing risks of infiltration or criminal opportunities.

6.2.1.1 Recommendations

OCGs are entrenched in many legal trades, especially those with grey market conditions, allowing the legal and illegal to readily coexist and intertwine. Therefore, combatting efforts should focus on infiltration opportunities offered by potential targets, informed by the insight provided of infiltration behaviour. Moreover, the explained drivers (motivations) go beyond profit motivations; it emphasises that infiltration motives can and do go beyond money.

Preventative measures will be better equipped if the targeted business understands how and why infiltration may be pursued. OCGs will be deterred if the scale is tipped so the required effort to infiltrate (risk of failure) outweighs the potential benefit the OCG may reap.

6.2.2 Article 2

The objective of this article was to describe the current scale and nature of the illicit tobacco trade (ITT) and evaluate the attempts to combat it in South Africa. Two categories of drivers of the underlying ICT were investigated to create a holistic picture of that market's context; these drivers were classified as either price or non-price factors. Thereafter, recommendations on measures the state, commerce and legal authorities could take to confront the problem with a reasonable chance of success are recommended.

The comparison between South Africa's intervention efforts and international best practices (in the form of the ITT Protocol) revealed a lack of capability. Areas related to licensing, due diligence requirements, track-and-trace technology, and record-keeping requirements were lacking. Worsening the lack of capability is the perceived risk associated with participation in the trade – criminals and opportunists alike view the risk as “acceptable” compared to the potential profits.

Consequently, the focus shifted to explain how the current attempts at regulating and labelling the South African grey tobacco trade could be improved.

6.2.2.1 Recommendations

Controls may only be deemed effective if they are matched with successful enforcement and the prosecution of offenders. In South Africa, the core of the ICT challenge lies in the state's inability to effectively regulate this grey industry, where the illicit and legal habitually overlap. To contribute to the solution of this problem, comprehensive recommendations were compiled.

In brief, the following was recommended:

- Increasing the perceived risk associated with participation by imposing more severe penalties and doing so publicly. Therefore, “rebranding” the ICT to better align public perception with reality is not merely a financial crime (tax evasion focused), but rather an example of organised crime.
- Requiring examination of the tobacco industry to identify high-risk individuals and enterprises to better guard against corruption.
- Bolstering border patrol capabilities at ports of entry, such as the Beitbridge border, by, for example, improved scanning technology.
- Improving the licensing process and introducing extensive licensing requirements across the supply chain.
- Implementing basic due diligence requirements (know-your-customer checks).
- Reinstating the track-and-trace tender process to acquire the much-needed tracing technology.
- Reconsidering the allowance for self-declaration duty payments.
- Replacing the archaic tax stamp with more sophisticated markings, thus increasing security across production and distribution.

6.2.3 Article 3

Intending to strengthen law enforcement capability and policy effectiveness, Article 3 (Chapter 5) investigated criminal coordination in the IWT through investigating illicit South African abalone and cycad markets. This article proposed a risk assessment model to aid this fight by identifying the emerging threat of coordination in criminal natural-resources markets.

In the form of critical analysis, this qualitative literature study revealed that South Africa is fighting an uphill battle against illicit wildlife markets, which it seems to be losing. Related combatting efforts are habitually undermined by a lack of resources and capabilities and are thwarted by sophisticated criminal networks.

Thus, it is proposed that existing combatting strategies must be adapted and updated as they are not fit for purpose if they do not account for the market's inner workings. For this purpose, an adapted five-factor model was built. These five indicators of criminal coordination were identified as:

- Law enforcement attention given to the market.
This required the consideration of seizure and prosecution data, alongside the existence of dedicated taskforces or interventions.
- Other criminal presences in the market.
Reports of the product being mixed in with other contraband or its supply chains overlapping with another illicit market's operations were used.
- The market's dimensions.
Dimensions were defined by determining whether the market is regulated (thus grey as the legal and illegal can converge) or prohibited.
- Consumer demand.
Attention was granted to the commodity's market price (for end-users or consumers) and the nature of the customer's demand.

- The availability of the underlying item.

Considerations included whether an alternative commodity is available, as well other source locations (internationally and locally).

6.2.3.1 Recommendations

The suggested updated approach acknowledges that a coordinated market poses an especially significant threat due to the complexity of trafficking routes and cooperation among role-players. For example, after examining the illicit cycad trade, the indicator-based model showed that this illicit market may be criminally coordinated, not predominately informal and driven by individual collectors and traditional healers as currently believed.

Ultimately, through implementing the proposed model, the perception held by market regulators and thus their actions can be judged for their appropriateness. The model can also direct efforts to rectify misplaced or ineffective initiatives by indicating areas that require additional or alternative interventions. Therefore, the recommendation is for law enforcement and policymakers to utilise this model to provide additional insight into the market under scrutiny.

6.3 Conclusion on the problem statement

The main problem statement was: How can the infiltration of specific licit markets be addressed? In response, the main objective, to critically analyse the infiltration of particular licit markets to guide the reform of existing guidelines and regulations, was pursued.

When OCGs participate in a legal market, their criminality infects the healthy market and leaves it ill and contagious to the rest of the licit economy. To better understand this virus of criminality, the methods and drivers for infiltration must be understood. These methods are selected to best exploit the available criminal opportunity, which is abundant in grey markets.

Both the ICT and IWT are grey markets because the legal and illegal readily intertwine to form a muddy (grey) context. Intervention needs to account for infiltration behaviour to provide comprehensive protection to the market and its legal participants.

Additionally, understanding the market's context can be crucial as each market peddles a different type of contraband.

Addressing the South African ICT requires reform of regulatory initiatives in the tobacco trade. In contrast, the IWT may be addressed most effectively if each individual fauna or flora market is examined separately. This provides insight into the idiosyncrasies of each market – thus, combatting efforts can be tailored to suit the existing market conditions.

6.4 Limitations

A literature study was conducted; therefore, this paper has the inherent limitation of being based upon secondary sources. The reliability of findings was verified (where possible) through cross-referencing and verification with other sources from credible sources (such as peer-reviewed articles). Verification through interviews was not attempted, specifically due to the covert and criminal nature of the relevant illicit markets and the OCGs involved. However, a comprehensive, holistic approach was followed by gathering multidisciplinary sources from various recognised international institutions.

6.5 Recommendations for future research

Empirical research which examines the effects of implementing the recommended actions could prove valuable; for example, the benefits and disadvantages of updating the diamond excise tax stamps on cigarette packages. Furthermore, research investigating the usage of cycad bark as a narcotic is severely lacking, thus the possible convergence between the illicit cycad trade and the narcotics trade remains unexplored.

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ANNEXURE A

Declaration of editing by language practitioner

LANGUAGE PRACTITIONER: Anneke Denobili

BA Communication Science (Corporate and Marketing Communications)*
BA Hons Communication Science (Corporate and Marketing Communications)*
* Cum Laude

17A Innes Avenue
Waverley, Bloemfontein

Tel: 084 244 8961
annekedenobili@gmail.com

November 2021

DECLARATION

I, Anneke Denobili, hereby declare that I did the language editing of the dissertation of Mariska Fourie (student # 28484193) titled, *An analysis of organised crime groups as participants in the licit economy*. Dissertation submitted in fulfillment of the requirements for the degree Master of Commerce in Forensic Accountancy at the North-West University, Potchefstroom Campus. All the suggested changes, including the implementation thereof, were left to the discretion of the student.

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Tables	Tables should be typed and submitted in a separate file to the main body of the article. The position of each table should be clearly labelled in the main body of the article with corresponding labels clearly shown in the table file. Tables should be numbered consecutively in Roman numerals (e.g. I, II, etc.). Give each table a brief title. Ensure that any superscripts or asterisks are shown next to the relevant items and have explanations displayed as footnotes to the table, figure or plate.
References	All references in your manuscript must be formatted using one of the recognised Harvard styles. You are welcome to use the Harvard style Emerald has adopted – we've provided a detailed guide below. Want to use a different Harvard style? That's fine, our typesetters will make any necessary changes to your manuscript if it is accepted. Please ensure you check all your citations for completeness, accuracy and consistency. Emerald's Harvard referencing style References to other publications in your text should be written as follows: • Single author: (Adams, 2006) • Two authors: (Adams and Brown, 2006) • Three or more authors: (Adams <i>et al.</i>, 2006) Please note, 'et al' should always be written in italics. A few other style points. These apply to both the main body of text and your final list of references. • When referring to pages in a publication, use 'p.(page number)' for a single page or 'pp.(page numbers)' to indicate a page range. • Page numbers should always be written out in full, e.g. 175-179, not 175-9. • Where a colon or dash appears in the title of an article or book chapter, the letter that follows that colon or dash should always be lower case. • When citing a work with multiple editors, use the abbreviation 'Ed.s'. At the end of your paper, please supply a reference list in alphabetical order using the style guidelines below. Where a DOI is available, this should be included at the end of the reference.
<i>For books</i>	Surname, initials (year), <i>title of book</i>, publisher, place of publication. e.g. Harrow, R. (2005), <i>No Place to Hide</i>, Simon & Schuster, New York, NY.
<i>For book chapters</i>	Surname, initials (year), "chapter title", editor's surname, initials (Ed.), <i>title of book</i>, publisher, place of publication, page numbers. e.g. Calabrese, F.A. (2005), "The early pathways: theory to practice – a continuum", Stankosky, M. (Ed.), <i>Creating the Discipline of Knowledge Management</i>, Elsevier, New York, NY, pp.15-20.

For published conference proceedings	Surname, initials (year of publication), "title of paper", in editor's surname, initials (Ed.), <i>title of published proceeding which may include place and date(s) held</i>, publisher, place of publication, page numbers. e.g. Wilde, S. and Cox, C. (2008), "Principal factors contributing to the competitiveness of tourism destinations at varying stages of development", in Richardson, S., Fredline, L., Patiar A., & Ternel, M. (Ed.s), <i>CAUTHE 2008: Where the 'bloody hell' are we?</i>, Griffith University, Gold Coast, Qld, pp.115-118.
For unpublished conference proceedings	Surname, initials (year), "title of paper", paper presented at [name of conference], [date of conference], [place of conference], available at: URL if freely available on the internet (accessed date). e.g. Aumueller, D. (2005), "Semantic authoring and retrieval within a wiki", paper presented at the European Semantic Web Conference (ESWC), 29 May-1 June, Heraklion, Crete, available at: http://dbs.uni-leipzig.de/file/aumueller05wiksar.pdf (accessed 20 February 2007).
For working papers	Surname, initials (year), "title of article", working paper [number if available], institution or organization, place of organization, date. e.g. Moizer, P. (2003), "How published academic research can inform policy decisions: the case of mandatory rotation of audit appointments", working paper, Leeds University Business School, University of Leeds, Leeds, 28 March.
For encyclopaedia entries (with no author or editor)	<i>Title of encyclopaedia</i> (year), "title of entry", volume, edition, title of encyclopaedia, publisher, place of publication, page numbers. e.g. <i>Encyclopaedia Britannica</i> (1926), "Psychology of culture contact", Vol. 1, 13th ed., Encyclopaedia Britannica, London and New York, NY, pp.765-771. (for authored entries, please refer to book chapter guidelines above)
For newspaper articles (authored)	Surname, initials (year), "article title", <i>newspaper</i>, date, page numbers. e.g. Smith, A. (2008), "Money for old rope", <i>Daily News</i>, 21 January, pp.1, 3-4.
For newspaper articles (non-authored)	<i>Newspaper</i> (year), "article title", date, page numbers. e.g. <i>Daily News</i> (2008), "Small change", 2 February, p.7.

Other unpublished sources	Record series 9/5/29 Box 3, University of Illinois Archives, Urbana-Champaign, IL.
For electronic sources	If available online, the full URL should be supplied at the end of the reference, as well as the date that the resource was accessed. Surname, initials (year), 'title of electronic source', available at: persistent URL (accessed date month year). e.g. Weida, S. and Stolley, K. (2013), 'Developing strong thesis statements', available at: https://owl.english.purdue.edu/owl/resource/588/1/ (accessed 20 June 2018) Standalone URLs, i.e. those without an author or date, should be included either inside parentheses within the main text, or preferably set as a note (Roman numeral within square brackets within text followed by the full URL address at the end of the paper).
For data	Surname, initials (year), <i>title of dataset</i>, name of data repository, available at: persistent URL, (accessed date month year). e.g. Campbell, A. and Kahn, R.L. (2015), <i>American National Election Study, 1948</i>, ICPSR07218-v4, Inter-university Consortium for Political and Social Research (distributor), Ann Arbor, MI, available at: https://doi.org/10.3886/ICPSR07218.v4 (accessed 20 June 2018)

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There are a number of key steps you should follow to ensure a smooth and trouble-free submission.

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- Give the journal aims and scope a final read. Is your manuscript definitely a good fit? If it isn't, the editor may decline it without peer review.
- Does your manuscript comply with our **research and publishing ethics guidelines**?
- Have you cleared any necessary **publishing permissions**?
- Have you followed all the formatting requirements laid out in these author guidelines?
- Does the manuscript contain any information that might help the reviewer identify you? This could compromise the anonymous peer review process. A few tips:
 - If you need to refer to your own work, use wording such as 'previous research has demonstrated' not 'our previous research has demonstrated'.
 - If you need to refer to your own, currently unpublished work, don't include this work in the reference list.
 - Any acknowledgments or author biographies should be uploaded as separate files.
 - Carry out a final check to ensure that no author names appear anywhere in the manuscript. This includes in figures or captions.

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Frequently asked questions

<i>Is there a submission fee for the journal?</i>	The only time we will ever ask you for money to publish in an Emerald journal is if you have chosen to publish via the gold open access route. You will be asked to pay an APC (article processing charge) once your paper has been accepted (unless it is a sponsored open access journal). Read about our APCs At no other time will you be asked to contribute financially towards your article's publication. If you haven't chosen gold open access and you receive an email which appears to be from Emerald, asking you for payment to publish, please contact our Rights team on permissions@emeraldinsight.com
<i>How can I become a reviewer for a journal?</i>	Please contact the editor for the journal, with a copy of your CV. You will find their contact details on the editorial team tab on this page.
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ANNEXURE C

JOURNAL GUIDELINES: South African Crime Quarterly.

Available at: <https://journals.assaf.org.za/index.php/sacq/about/submissions>



Institute for Security Studies Style Guide – SA Crime Quarterly

CONTENTS

Section 1: References in the text

1 References in the text

- 1.1 Books
- 1.2 Books with multiple authors
- 1.3 Books published under an editorship
- 1.4 Chapters of edited books
- 1.5 Journal articles
- 1.6 Newspaper articles
- 1.7 Personal communications
- 1.8 Referencing from the Internet
- 1.9 Other types of documents in (end)notes

Section 2: Style and formatting

- 2.1 General principles
- 2.2 Article titles, headings, and sections
- 2.3 Acronyms and abbreviations
- 2.4 Quotations
- 2.5 Gender-neutral language
- 2.6 Bulleted and numbered lists
- 2.7 Graphs/tables/maps

SECTION 1

REFERENCES IN THE TEXT

The **short-title system of referencing** is to be used in the SA Crime Quarterly.

Use (end) notes, not footnotes. The heading should read 'Notes', not 'Endnotes'.

(END)NOTE INDICATOR: POSITION IN TEXT

Place the endnote indicator after the argument, not after the name(s) of the author(s):

Ghobarah, Huth and Russett point out that there has been a dramatic, but largely unknown, decline in the number of wars, genocides and human rights abuse over the past decade.¹

(END)NOTE: DESCRIPTION IN NOTE

1 Hazem Ghobarah, Paul Huth and Bruce Russett,¹ The postwar public health effects of civil conflict,² *Social Science and Medicine*³ 59 (2004), 869–884,⁴ 875.⁵ These results refine those in Ghobarah, Huth and Russett,⁶ Civil wars kill and maim people - long after the shooting stops, *American Political Science Review* 97(2)⁷ (2003), 189–202.

1 REFERENCES IN THE TEXT – (END)NOTES

In all examples in this section, the note containing the first reference (**IN BOLD RED**) is followed by a subsequent reference using the short-title method (**IN BOLD GREEN**). It is assumed that the references all pertain to direct quotes, where page numbers are required. When you are referring to a central idea in a specific work, no page numbers are required.

1.1 Books

Name(s) (or initials) and surname(s) of author(s)

Full title of book (including subtitle) in italics

Edition of book (if not first edition), not printing or impression

Place of publication

Publisher

Year of publication

Page number in case of direct quote

¹ Names of authors are given as they appear on the cover and title page.

² Only the first word in the title of article is capitalised; no quotation marks are required.

³ No comma is required following the journal title; the journal title should be written in uc/lc.

⁴ Inclusive page numbers only, need not be preceded by p or pp.

⁵ Number of page where direct quote was taken from.

⁶ Same authors, therefore no names are required.

⁷ This part of reference in the format: issue (number).

Daniel Bell, *The cultural contradictions of capitalism*, New York: Basic Books, 1976, 7.

Bell, *The cultural contradictions of capitalism*, 9.

If followed by a reference to the same page:

Ibid.

W Ulrich, *Critical heuristics of social planning: an overview*, 2nd ed, Chicago: University of Chicago Press, 2003, 117.

Ulrich, *Critical heuristics of social planning*, 179.

1.2 Books with multiple authors

Books with two or three authors, of equal status

J Kirk and R J Munday, *Narrative analysis*, 3rd ed, Bloomington: Indiana University Press, 2004, 66.

Kirk and Munday, *Narrative analysis*, 80.

Books with more than three authors

B Grace, T Sheradon, P Honey et al, *A short history of the world*, Princeton, NJ: Princeton University Press, 1998, 15.

Grace et al, *A short history of the world*, 89.

1.3 Books published under an editorship

Paul E Lovejoy and Toyin Falola (eds), *Pawnship, slavery, and colonialism in Africa*, Trenton and Asmara: Africa World Press, 2003, 111.

Lovejoy and Falola, *Pawnship, slavery, and colonialism in Africa*, 119.

1.4 Chapters of edited books

Jean Allman, *Rounding up spinsters: gender chaos and unmarried women in colonial Asante*, in Dorothy L Hodgson and Shirley A McCurdy (eds), *'Wicked' women and the reconfiguration of gender in Africa*, Portsmouth, Oxford, Cape Town: Social History of Africa, 2001, 89.

Allman, *Rounding up spinsters*, 190.

1.5 Journal articles

Name(s) (or initials) and surname(s) of author(s)

Title of article

Name of journal, in italics

Volume number followed by issue number (where relevant) in brackets

Year of publication in brackets

Comma, followed by page numbers only (no p or pp required)

Page number in case of direct quote

James Murdoch and Todd Sandler, Economic growth, civil wars, and spatial spillovers, *Journal of Conflict Resolution* 46(1) (2002), 91–110, 96.
Murdoch and Sandler, Economic growth, civil wars, and spatial spillovers, 101.

1.6 Newspaper articles

Name(s) (or initials) and surname(s) of author(s) (if known)
Title of article
Name of newspaper, in italics
Day, month and year of publication, followed by comma
Page number(s) where article appeared

Maggi Barnard, AIDS 'an intelligence issue', *The Namibian*, 13 February 2001, 7-8.
Barnard, AIDS 'an intelligence issue', 8.

1.7 Personal communications

Use an endnote reference, as in these examples:

'He called the current economic climate uncertain.'¹

1 R Jordan, Commissioner of police, Pietermaritzburg, personal communication, 6 July 2004.

OR

'At our meeting R Jordan¹ pointed out ...'

1 Personal communication, 4 April 2004.

1.8 Referencing from the Internet

1.8.1 Documents

Name(s) (or initials) and surname(s) of author(s), or corporate author
Title of document (with a version number if later than the first)
Title of web page, normally the main heading on the page
Location URL
Date accessed in brackets (especially important in this context, since the page may have been updated)

United Nations Security Council, Resolution 1862 (2009), adopted by the Security Council at its 6065th meeting on 14 January 2009, <http://daccessdds.un.org/doc/UNDOC/GEN/N09/208/38/PDF/N0920838.pdf?OpenElement> (accessed 12 February 2009).
United Nations Security Council, Resolution 1862.

1.8.2 Online newspaper articles

Maggi Barnard, AIDS 'an intelligence issue', *The Namibian*, 13 February 2001, <http://www.namibian.com.na/2001/February/news/01D3168B4F.html> (accessed 30 May 2005).

Maggi Barnard, AIDS 'an intelligence issue'.

M Chittenden, L Rogers and D Smith, Focus: Targetitis ails NHS, *Times Online*, 1 June 2003, <http://www.timesonline.co.uk/print/11-1506-669.html> (accessed 17 March 2005).

Chittenden et al, Focus: Targetitis ails NHS.

1.8.3 Information obtained from a website

Political corruption, Wikipedia, [http://en.wikipedia.org/wiki/Corruption_\(political\)](http://en.wikipedia.org/wiki/Corruption_(political)) (accessed 12 February 2009).

Political corruption.

1.8.4 E-mail correspondence/discussion lists

Particular care needs to be taken if you are quoting from these sources, as they may include personal e-mail addresses and be from a restricted source. Permission should be sought before these sources are quoted:

J Jones (jones@jones.com), Mobile phone developments, Message to R G Schmit (rgschmit@syy.ac.uk), Sent Monday, 7 June 2005, 08:13, http://gog.defer.com/2004_07_01_defer_archive.html (accessed 7 July 2004).

Jones, Mobile phone developments.

1.9 Other types of document in (end)notes

1.9.1 Acts of Parliament

The standard method of citing an Act of Parliament is by its short title, which includes the year, followed by the number of the Act in brackets.

Higher Education Act 2004 (Act 70 of 2004), London: HMSO.
Higher Education Act 2004.

1.9.2 Law reports

Name of the parties involved in the law case

Law reporting series

Volume and number

Page reference

Year of reporting

R v White (John Henry), EWCA Crim 689, 2005 WL 104528.

Jones v Lipman [1962] 1 WLR 832, 2005.

R v White (John Henry).

1.9.3 Dissertations and theses

Name (or initials) and surname of author

Title of dissertation/thesis (usually in roman type: not published)

Academic level (for example 'master's dissertation' or 'PhD thesis')

Institution
Where situated
Relevant year

Julie Richmond, Customer expectations in the world of electronic banking: a case study, Unpublished PhD thesis, University of North West, Potchefstroom, 2005, 344.

Richmond, Customer expectations in the world of electronic banking, 367.

SECTION 2

STYLE AND FORMATTING

2.1 General principles

Style and formatting should be applied consistently. One way of presenting information may be as good as another is, but consistency promotes clarity and cohesion.

Use UK English, not US English.

2.2 Article titles, headings, and sections

2.2.1 Article titles

- Titles are generally nouns or noun phrases (*Effects of the wild*, not *About the effects of the wild*).
- Titles for SACQ should include a primary title and a secondary title e.g: Agents of restorative justice? Probation officers in the child justice system
- Titles should be short.
- The initial letter of a title is capitalised (except in very rare cases, such as *eBay*). Otherwise, capital letters are used only where implied by normal capitalisation rules (*Funding of UNESCO projects*, not *Funding of UNESCO Projects*).
- *A*, *an*, and *the* are normally avoided as the first word (*Economy of the Second Empire*, not *The economy of the Second Empire*), unless part of a proper noun (*The Hague*).
- Special characters such as the slash (/), plus sign (+), braces ({ }), and square brackets ([]) are avoided; the ampersand (&) is replaced by *and*, unless it is part of a formal name (*Emerson, Lake & Palmer*).

2.2.2 Header levels

Indicate the hierarchy of levels, preferably not more than three, as follows:

HEADING 1

Heading 2

Heading 3

2.2.3 Section headings

- Section names should not explicitly refer to the subject of the article, or to higher-level headings, unless doing so is shorter or clearer. For example, **Early life** is preferable to **His early life** when **His** means the subject of the article; headings can be assumed to be about the subject unless otherwise indicated. Section headings should be kept short – fewer than 8 words

Capitalise the first letter of the first word and any proper nouns in headings, but leave the rest lower case. Thus **Rules and regulations**, not **Rules and Regulations**.

2.3 Acronyms and abbreviations

Write out both the full version and the abbreviation at first occurrence.

When introducing a new name in an article, it is good practice to use the full name on its first occurrence, followed by the abbreviated form in parentheses.

Initial capitals are not used in the full name of an item just because capitals are used in the abbreviation.

Incorrect (not a name):

We used Digital Scanning (DS) technology

Correct:

We used digital scanning (DS) technology

Correct (name):

Produced by the British Broadcasting Corporation (BBC)

If the full term is already in parentheses, use a comma (,) and **or** to indicate the abbreviation; for example **They first debated the issue in 1999 (at a congress of the African National Congress, or ANC).**

2.4 Quotations

2.4.1 Minimal change

Wherever reasonable, preserve the original style, spelling, and punctuation.

Where there is a good reason not to do so, insert an editorial explanation of the changes, usually within square brackets ([for example]). If there is an error in the original statement, use [sic] to show that it is not a transcription error.

2.4.2 Allowable changes

Though the requirement for minimal change is strict, a few merely typographical elements of the quoted text should normally be altered without comment, to conform to English conventions. Such a practice is universal, in all publishing. Such alterations include:

- Styling of dashes (use spaced en dash).
- Such typographical elements as guillemets (« »), in quoted French, Portuguese, and other foreign-language material) should be altered to their English-language equivalents (guillemets become quote marks, for example).
- Spaces before periods, colons, semicolons, and the like should be removed, since they are merely typographical and are alien to the conventions in use throughout English-language publishing in general.
- Some text styling (of course the typeface will be automatically made the same as the article's default typeface; but preserve bold, underlining, and italics).
- Ellipses should be used whenever parts of a quotation are skipped. Legitimate reasons for omitting parts of quotation include removing extraneous, irrelevant, or parenthetical words or skipping over unintelligible or guttural speech (umm, ahhs, and hmms, for example). Care should be made not to use ellipses to remove context or to selectively quote so as to change the meaning of the quote.

2.4.3 Quotations within quotations

When a quotation includes another quotation (and so on), start with single quotation marks outermost, and, working inward, alternate double with single quotation marks. The following example has three levels of quotation: 'She

disputed his statement that "Voltaire never said 'I disapprove of what you say, but I will defend to the death your right to say it.'"

Adjacent quotation marks, as at the end of this example, can be difficult to read unless kerned apart slightly.

2.4.4 Attribution

The author of a quote of a full sentence or more should be named.

2.4.5 Block quotations

A long quote (more than four lines, or consisting of more than one paragraph, regardless of number of lines) is formatted as a block quotation. Block quotes are not enclosed in quotation marks.

2.5 Gender-neutral language

Use gender-neutral language where this can be done with clarity and precision. This does not apply to direct quotations or the titles of works (*The Ascent of Man*), or where all referents are of one gender, such as in an all-female school (*if any student broke that rule, she was severely punished*).

2.6 Bulleted and numbered lists

- Do not use lists if a passage reads easily using plain paragraphs.
- Do not leave blank lines between items in a bulleted or numbered list unless there is a reason to do so.
- Use numbers rather than bullets only if:
 - there is a need to refer to the elements by number;
 - the sequence of the items is critical; or
 - the numbering has value of its own, for example in a track listing.
- Use the same grammatical form for all elements in a list where possible, and do not mix the use of sentences and sentence fragments as elements.
 - When the elements are sentence fragments, they are typically introduced by a lead fragment ending with a colon. Final punctuation for these elements can be omitted entirely, or should otherwise be a period for the terminating element with each of its preceding elements having a final semicolon.

2.7 Graphs/tables/maps

All graphs/tables/maps should have headings and sources and be made available at a suitable resolution (300 dpi).

ANNEXURE D

Article 2: - The South African illicit cigarette trade: Smoke signals for reform?

REFERENCE LIST

A. Aziani, F. Calderoni and M. Dugato, Explaining the Consumption of Illicit Cigarettes, *Journal of Quantitative Criminology*, 37(3) (2021), doi: 10.1007/s10940-020-09465-7, 751-789.

A. K. Mukong and E. N. Tingum, The demand for cigarettes: new evidence from South Africa, *Development Southern Africa*, (2020) 37(1), doi: 10.1080/0376835X.2019.1640108, 40-54.

A. N. Berdiev, J.W. Saunoris and F. Schneider, Give me liberty or I will produce underground: Effects of economic freedom on the shadow economy, *Southern Economic Journal*, 85(2) (2018), doi: 10.1002/soej.12303, 537-562.

A. N. Berdiev, R.K. Goel and J.W. Saunoris, International Disease Epidemics and the Shadow Economy, CESifo working paper, WP/8425, <https://core.ac.uk/download/pdf/343941062.pdf> (accessed 18 March 2021).

Alex Hogg (editor), Edward Zuma partner Yusuf Kaje: how SA tobacco trade really works, *BizNews*, 26 December 2020, <https://www.biznews.com/thought-leaders/2020/12/26/edward-zuma-tobacco> (accessed 13 July 2021).

ATIM (Africa Centre for Tobacco Industry Monitoring and Policy Research), South Africa tobacco industry interference index, (2019) https://www.atim.co.za/wp-content/uploads/2019/10/South-Africa_TII-Index_ATIM_Oct-2019-FINAL.pdf (accessed 13 July 2021).

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ANNEXURE E

Article 3 - Targeting wildlife trafficking: A model for assessing the threat of criminal coordination in illicit wildlife markets

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