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Special Issue on
Money, Security and Democratic Governance in Africa (II)

Numéro spécial sur
Argent, sécurité et gouvernance démocratique en Afrique (II)

This volume of *Africa Development* is dedicated to
Naffet Keita (1968–2018)
who passed away before the editing was completed.

Ce volume *d'Afrique et développement* est dédié à
Naffet Keita (1968–2018)
décédé avant la fin de son édition.

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Africa Development is a quarterly bilingual journal of CODESRIA. It is a social science journal whose major focus is on issues which are central to the development of society. Its principal objective is to provide a forum for the exchange of ideas among African scholars from a variety of intellectual persuasions and various disciplines. The journal also encourages other contributors working on Africa or those undertaking comparative analysis of the developing world issues.

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Africa Development / Afrique et Développement

CODESRIA, Av. Cheikh Anta Diop x Canal IV B.P. 3304, Dakar, 18524 Sénégal

Tel: +221 825 98 22 / 825 98 23 – Fax: +221 824 12 89

Email: publications@codesria.org

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Naffet Keita
(1968–2018)



Editorial

Money, Security and Democratic Governance in Africa (II)

This special edition of *Africa Development* is published posthumously. It is dedicated to the memory of Naffet Keita who wrote the introductory article, of the first issue on this thematic volume (*Africa Development*, Volume XLIV, No. 1, 2019), but passed away before the editorial process was completed. He died in a traffic accident on Monday 22nd October 2018, together with his friend and colleague Ambroise Dakouo, on their way to participate in a seminar on security in Ségou, Mali. For a period of over twenty years, Naffet continued to research, write about and provide policy advice on questions related to conflict and radicalisation in Mali, distinguishing himself as one of the few grounded experts on security issues in Africa. Some of his most important publications include a book on the subject of the Tuareg Rebellion, another on slavery in Mali, a research on unemployment and development in underdeveloped countries, and more recently, a book on telephony and mobility in Mali. Amongst many things, he argues that radicalisation is the product of a failure by governments and political systems to provide the basic needs of society. In other words, insecurity arises out of a rupture of the social contract.

This edition of *Africa Development* is the second of four thematic issues bringing together a selection of contributions from the international conference on “Money, Security and Democratic Governance in Africa”, organised by CODESRIA and the United Nations Office for West Africa (UNOWAS) in Bamako, Mali, from 19 and 20 October 2017. The meeting followed a series of policy dialogues between the two organisations and research communities on the continent, part of CODESRIA’s engagements in seeking empirically grounded answers to critical questions on security and governance in Africa. Naffet Keita was a resource person during the conference, delivering one of the keynotes.

Security, governance and money are intimately linked. Governance challenges are known to fuel insecurity which in turn undermines efforts at promoting good governance in many countries. Illicit financial flows have the tendency to subvert good governance and fuel insecurity. The illicit

proceeds of transnational organized crime, including drugs and human trafficking have become big contributors to governance challenges in Africa. Illicit funds have permeated, and compromised electoral and governance processes and structures in a number of countries. Furthermore, many groups are known to be using proceeds from various forms of trafficking to purchase arms and pay for operations. Difficulties in domestic resource mobilization undercut the ability of states and supra-state entities to provide adequate security. Countries and regional organizations often depend heavily on external funding for their operations, thereby raising new concerns.

New efforts to reinforce security agencies in response to insurgencies and terrorism also raise concerns over a resurgence of the state security paradigm after the rise of human security in the 1990s. This return to the primacy of force not only crowds out investments in other vital areas of service delivery, but also threatens much of the progress made in focusing on the links between governance and security.

Contributions provide responses to several pertinent questions: To what extent do illicit financial flows undermine democratic governance and security in Africa and what are the sources of the funds involved in these flows? What are the effective ways to curb the influence of illicit money on democratic governance and security in Africa? How are gender and age involved in the interactions of money, security and governance? How can social movements, especially those involving women and the youth, help curb the influence of illicit financial flows on democratic governance and security in Africa? How has investment in law enforcement agencies and security forces affected the capacity and interest of African states to deal with human development challenges? What are some of the deleterious 'side effects' of efforts to curb the influence of illicit flows on democratic governance and security in Africa?



Éditorial

Argent, sécurité et gouvernance démocratique en Afrique (II)

Cette édition spéciale d'*Afrique et développement* est publiée à titre posthume. Elle est dédiée à la mémoire de Naffet Keita qui avait rédigé l'article d'introduction, de la première édition de ce numéro spéciale (*Afrique et développement*, Volume XLIV, No. 1, 2019) mais est décédé avant la fin du processus éditorial. Il est mort dans un accident de la route le lundi 22 octobre 2018, avec son ami et collègue Ambroise Dakouo, alors qu'ils allaient participer à un séminaire sur la sécurité à Ségou, au Mali. Pendant plus de vingt ans, Naffet a mené ses recherches, écrit et conseillé sur les questions de conflits et de radicalisation au Mali, se distinguant comme l'un des rares experts des questions de sécurité en Afrique. Parmi ses publications les plus importantes, citons un livre sur la rébellion touareg, un autre sur l'esclavage au Mali, une recherche sur le chômage et le développement dans les pays sous-développés et, plus récemment, un livre sur la téléphonie et la mobilité au Mali. Il a notamment fait valoir que la radicalisation est le produit d'un échec des gouvernements et des systèmes politiques à satisfaire les besoins fondamentaux de la société. Dans d'autres termes, l'insécurité découlant d'une rupture du contrat social.

Cette édition d'*Afrique et développement* est la deuxième de quatre parutions thématiques rassemblant une sélection de contributions de la conférence internationale sur « Argent, sécurité et gouvernance démocratique en Afrique », organisée les 19 et 20 octobre 2017 par le CODESRIA et le Bureau des Nations Unies pour l'Afrique de l'Ouest et le Sahel (UNOWAS) à Bamako, au Mali. Cette conférence fait suite à une série de discussions politiques entre les deux organisations et communautés de recherche, dans le cadre des engagements du CODESRIA dans la recherche de réponses empiriques à des questions cruciales sur la sécurité et la gouvernance en Afrique. Naffet Keita était personne ressource à cette conférence de 2017 et y a prononcé une allocution.

La sécurité, la gouvernance et l'argent sont intimement liés. Les problèmes de gouvernance sont connus pour exacerber l'insécurité, qui, à son tour, compromet les efforts de promotion de la bonne gouvernance.

Les flux financiers illicites subvertissent la bonne gouvernance et alimentent l'insécurité. Les produits illicites du crime organisé transnational, y compris le trafic de drogue et d'êtres humains, sont devenus des contributeurs majeurs aux problèmes de gouvernance en Afrique. Des fonds illicites ont infiltré et compromis les structures et processus électoraux et de gouvernance dans nombre de pays. De plus, il est connu que de nombreux groupes utilisent les produits de diverses formes de trafic pour se procurer des armes et financer leurs opérations. Les difficultés de mobilisation de ressources nationales compromettent la capacité des États et des entités supra-étatiques à assurer adéquatement la sécurité. Les pays et les organisations régionales dépendent souvent fortement de financements extérieurs pour leurs opérations, ce qui suscite de nouvelles inquiétudes.

Suite à la montée, dans les années 90, du concept de sécurité humaine, les nouveaux efforts de renforcement des agences en charge de la sécurité, en réponse aux insurrections et au terrorisme, soulèvent des préoccupations quant à la résurgence du paradigme de sécurité d'État. Ce retour à la primauté de la force prive d'investissements d'autres domaines vitaux de prestation de services, et menace également une grande partie des progrès réalisés en liant gouvernance et sécurité.

Les contributions répondent à plusieurs questions pertinentes : Dans quelle mesure les flux financiers illicites sapent-ils la gouvernance démocratique et la sécurité en Afrique et quelles sont les sources des fonds impliqués dans ces flux ? Quels moyens efficaces pour limiter l'influence de fonds illicites sur la gouvernance démocratique et la sécurité en Afrique ? Quelle est l'implication du sexe et de l'âge dans les interactions argent-sécurité-gouvernance ? Comment les mouvements sociaux, particulièrement ceux impliquant les femmes et les jeunes, peuvent-ils contribuer à réduire l'influence des flux financiers illicites sur la gouvernance démocratique et la sécurité en Afrique ? Comment l'investissement dans les forces de l'ordre et de sécurité a-t-il affecté la capacité et la motivation des États africains à faire face aux défis de développement humain ? Quels « effets secondaires » produit la lutte contre les flux illicites sur la gouvernance démocratique et la sécurité en Afrique ?



Financing Terrorism in Nigeria: Cutting off the Oxygen

Christiana Ejura Attah*

Abstract

The growth and continued spread of terrorism world-wide has been accentuated by the important role played by finance. Terrorist organisations will not survive for long without finance because terrorism is an expensive venture which requires constant supply of money for its sustenance. While the terrorists of old relied on crude implements such as daggers and knives which could easily be sourced, today's terrorists often need more sophisticated weapons for their operations. Terrorist organisations also require money to run their camps, feed their members and plan and carry out attacks on their targets. Although it may be conceded that cutting off the source of terror financing may not completely eradicate terrorism, it may affect the frequency and magnitude of attacks undertaken by terrorist groups. This article analyses the role of finance in the activities of terrorist organisations, with emphasis on the Boko Haram terrorist group in Nigeria and the attempts by the Nigerian government to curb the activities of this and other similar groups in the country through the use of law. Relying on doctrinal sources, the article concludes that more needs to be done to effectively cut off the various sources of finance open to terrorist organisations in Nigeria.

Résumé

L'avancée et la propagation du terrorisme dans le monde entier ont été accentuées par le rôle important joué par la finance. Les organisations terroristes ne survivront pas longtemps sans finances, car le terrorisme est une entreprise coûteuse qui doit être alimentée en permanence, car les terroristes d'antan comptaient sur des instruments archaïques tels que des dagues et des couteaux faciles à trouver, mais les terroristes d'aujourd'hui ont souvent besoin d'armes plus sophistiquées pour leurs opérations. Les organisations terroristes ont également besoin d'argent pour gérer leurs camps, nourrir leurs membres et

* Department of Jurisprudence and Public Law, College of Law, Joseph Ayo Babalola University, Ikeji-Arakeji, Osun State, Nigeria. Email: ejuaata@yahoo.co.uk

planifier et mener des attaques sur leurs cibles. La suppression de la source du financement du terrorisme ne permettra peut-être pas d'éradiquer complètement ce phénomène, mais elle pourrait affecter la fréquence et l'ampleur des attaques perpétrées par des groupes terroristes. Cet article analyse le rôle de la finance dans les activités des organisations terroristes en mettant l'accent sur le groupe terroriste Boko Haram au Nigéria et les tentatives du gouvernement nigérian d'endiguer, par des moyens légaux, les activités de ce groupe et de groupes similaires. S'appuyant sur des sources doctrinales, l'article conclut qu'il reste encore beaucoup à faire pour efficacement couper les différentes sources de financement ouvertes aux organisations terroristes au Nigéria.

Introduction

Terrorism thrives on finance provided mainly by illicit sources. The regular supply of cash to terrorist groups in turn ensures the continued existence of such groups and by extension a continuation of their terrorist activities. The Palestinian Liberation Organisation has been credited with establishing a precedence for financing violence which other terrorist groups have adopted (Ehrenfeld 2003: 1). Sources of terrorist financing today are multifarious and include money laundering, ransom from kidnapping, robbery, drug trafficking, 'protection fees', illegal arms trade, donations from wealthy sympathisers and contributions from other terror groups. This list is not exhaustive but it goes to show the multitude of channels of funding open to terrorist groups. A striking feature of this list is the fact that nearly all the activities contained therein are criminal in nature.

In Nigeria, the Terrorism (Prevention) Act 2011 (as amended) expressly prohibits the funding of terrorism. Section 1 (1) stipulates that 'All acts of terrorism and financing of terrorism are hereby prohibited'. To get around this law, terrorists have to rely on crime for the finances necessary for funding their activities. The sources of funding available to Boko Haram are as diverse as they are illegal and criminal. Unconfirmed reports claim that between 2006 and 2011, the group was able to secure approximately US\$70 million in funding from various illicit sources. Boko Haram depends, for most of its funding, on such proceeds of crime as kidnapping for ransom, bank robbery, and the payment of 'protection fees' by individuals and state governments. Boko Haram has been fingered as the culprit in several incidents of kidnapping of not only prominent Nigerians but also Europeans and Americans, especially in Cameroon. Some of these include:

1. the kidnapping of a French priest, Georges Vandebeusch, in November 2013 (McCoy 2014);
2. the kidnapping of seven members of a French family (*ibid.*).

The victims were only released after the payment of ransoms to the terrorists. In the case of the French family, a ransom of US\$3 million was paid (*ibid.*).

Attacks on banks by Boko Haram are also a frequent occurrence which serve to provide much-needed cash for the terrorists. Bank robberies are believed to have yielded an estimated US\$6 million to the group (McCoy 2014). Some state governments in the northern part of Nigeria have allegedly paid regular 'protection fees' to Boko Haram. For instance, Isa Yuguda as Governor of Bauchi and Ibrahim Shekarau as Governor of Kano State allegedly paid regular 'protection money' to Boko Haram so that the organisation would not launch attacks in their states (Weber 2014). Additional funding for the group also comes from like-minded foreign terrorist groups such as al-Qaeda, in the Islamic Maghreb (AQIM) and the Somali group al-Shabaab (Blanchard 2014:7). Boko Haram was one of the major beneficiaries of the sum of US\$3 million sent to terror groups in Africa by the founder of al-Qaeda, Osama bin Laden, in 2002 (McCoy 2014).

The Nigerian legal framework and the financing of terrorism

Terrorism (Prevention) (Amendment) Act 2013

The Nigerian Terrorism (Prevention) (Amendment) Act 2013 specifically prohibits all acts of terrorism and the financing of terrorism (Section 1 (1)). The emphasis placed on the financing of terrorism has been informed by the key role finance plays in terrorism. Terrorists need money to carry out their activities, including 'money to finance training, recruit members, support global travel, support and sustain global communications, purchase instruments of terror (including biochemical and other weapons of mass destruction), and sustain and support terrorist cells' (Gurule 2004: 114). Thus, cutting off the source of terror finance inhibits the capacity of terror groups to carry out terror attacks. It is in recognition of this that Section 13 specifically criminalises the provision of funds for terror groups by providing that any person or entity who, in or outside Nigeria:

- (i) solicits, acquires, provides, collects, receives, possesses or makes available funds, property or other services by any means to either terrorists or terrorist groups, directly or indirectly with the intention or knowledge or having reasonable grounds to believe that such funds or property will be used in full or in part in order to commit an offence under this Act or in breach of the provisions of this Act;
- (ii) possesses funds intending that they be used or knowing that they will be used, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act by terrorist or terrorist groups, commits an offence under this Act and is liable on conviction to imprisonment for life.

The requisite *mens rea* for the commission of the offence of financing of terrorism under this section is the intention or knowledge that the funds so provided would be used for the purpose of committing or facilitating the commission of a terrorist act by the terrorist group to whom such funds have been provided. This offence is further strengthened by the latter arms of Section 13 which provides that 'any person who knowingly enters into, or becomes involved in an arrangement':

- (i) which facilitates the acquisition, retention or control by or on behalf of another person of terrorist fund by concealment, removal out of jurisdiction, transfer to a nominee or in any other way, or
- (ii) as a result of which funds or other property are to be made available for the purposes of terrorism or for the benefit of a specified entity or proscribed organization, commits an offence under this Act and is liable on conviction for life imprisonment.

For an act to constitute an offence under this section, it is not necessary that the funds or property were actually used to commit any offence of terrorism.

By the provisions of Section 13 (3), it would not be a defence to claim that the funds provided by an accused person to a terrorist organisation were not used by that group for the commission of any offence of terrorism. What is important to ground an offence under this section is proof that such funds were provided by the accused person to the terrorist group with the intention and knowledge that they would be used for the commission of a terrorism offence. Effectively, the intention behind the provision of funds to a terrorist group would suffice even when such funds had not been utilised for the purpose for which they had been provided. A similar provision is contained in Article 421-2-2 of the French Terrorism Law prohibiting the financing of terrorism, which provides as follows:

It also constitutes an act of terrorism to finance a terrorist organization by providing, collecting or managing funds, securities or property of any kind, or by giving advice for this purpose, intending that such funds, security or property be used, or knowing that they are intended to be used, in whole or in part, for the commission of any of the acts of terrorism listed in the present chapter, irrespective of whether such an act takes place.

Turkey has made similar provisions in Article 8 of its Financing of Terrorism Act which also prohibits the funding of terrorism as follows:

Whoever knowingly and willfully provides or collects fund for committing partially or fully terrorist crimes, shall be punished as a member of an organization. The perpetrator is punished in the same way even if the fund has not been used. Fund cited in the first paragraph of this article shall mean money or all types of property, right, credit, revenue and interest, value of

which may be presented by money, and benefit and value that was collected as a result of conversion thereof.

Section 13 of the Nigerian Terrorism (Prevention) (Amendment) Act, is in line with the provisions of the 1999 United Nations Convention for the Suppression of the Financing of Terrorism.

The Convention also enjoined state parties to not only criminalise the financing of terrorism but to also provide for the forfeiture of funds provided or collected for terrorist purposes by adopting measures to discourage such financing and punish perpetrators. The offence of financing of terrorism according to the Convention, is committed by any person who by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

- (i) an act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex;
- (ii) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or international organisation to do or to abstain from doing any act.

While making comprehensive provisions prohibiting the financing of terrorism, the Nigerian Anti-Terror Act is however silent on the consequences of withholding or diverting public funds meant for preventing terrorism. It is obvious that terrorists need adequate funding to carry out their acts of terrorism. It is equally obvious that when public funds meant for the purchase of equipment, arms and ammunitions needed to physically fight terrorists are diverted, such diversion aids the cause of the terrorists as much as the provision of funds to such terrorists and terrorist groups. A case in point is that involving a former Nigerian National Security Adviser, Sambo Dasuki, who allegedly diverted about US\$32 billion meant for the procurement of arms for the military's fight against Boko Haram terrorists (Anaedozie 2016: 16). I argue here that such illegal diversion should be criminalised and penalised under the Terrorism (Prevention) (Amendment) Act because it causes as much damage as the direct provision of funds to terrorist groups. Although it may be argued that this scenario has been captured by the provisions of Section 1(2) (c) of the Terrorism (Prevention) (Amendment) Act, which criminalises omission 'to do anything that is reasonably necessary to prevent an act of terrorism', the legislation can be better strengthened by specific prohibition of the withholding or diversion of funds meant for the fight against terrorism.

While it is noted that terrorists require financing to carry out attacks, the amount required in some cases is not much and can be provided by the terrorists themselves. An example has been cited of the terrorist bombings which took place in London on 7 July 2005. According to a report prepared by the United Nations Office on Drugs and Crime (Costa 2010: 31), these bombings were self-financed by terrorists led by Mohammed Kahn while the operations ‘cost less than £8,000’ (*ibid.*). Terrorists who passionately believe in the group’s cause would be prepared to go to any length to get funds for their operations – without necessarily relying on financing from people outside the terrorist cell or group. The detection of such financing may therefore prove a herculean task for investigators.

The Money Laundering (Prohibition) Act

The laundering of money for the financing of terrorism is an important source of funds used by terrorist groups for their operations. Virtually all activities of terrorists depend on the availability of money obtained through illegal means. It has been asserted that ‘terrorists cannot terrorize without money, without resources; training costs money, planning costs money, and explosives cost money, plane tickets cost money’ (Arabinda 2009: 7). In the same vein, the Financial Action Task Force (FATF) has noted that for a terrorist group to successfully carry out its terrorist activities, the group has to ‘build and maintain an effective financial infrastructure to generate income, launder the proceeds and make them available for committing terrorist acts’ (Barber 2011: 3). This has informed the enactment of legislation to curb the menace of money laundering.

The initial legislation on money laundering in Nigeria was the Money Laundering (Prohibition) Act 2004. This Act was later repealed and replaced by the Money Laundering (Prohibition) Act of 2011 and is an important constituent of the legal framework put to curb the financing of terrorism in Nigeria. The importance of this Act lies in the fact that the financing of terrorism is often facilitated through money laundering. The Act, in its preamble, therefore prohibits and criminalises the laundering of the proceeds of crimes and the financing of terrorism. Money laundering has been described as the process whereby:

illegal, or dirty, money is put through a cycle of transactions, or washed, so that it comes out the other end as legal, or clean, money. In other words, the source of illegally obtained funds is obscured through a succession of transfers and deals in order that those same funds can eventually be made to appear as legitimate income (Robinson 1994: 3).

Money laundering is defined in Part II Section 15 of the Nigerian Money Laundering Act, as referring to the conversion or transfer of resources or properties derived directly from:

- (i) illicit traffic in narcotic drugs and psychotropic substances; or
- (ii) participation in an organised criminal group and racketeering, terrorism, terrorist financing, trafficking in human beings and migrants smuggling, tax evasion, sexual exploitation, illicit arms, trafficking in stolen and other goods, bribery and corruption, counterfeiting currency, counterfeiting and piracy of products, environmental crimes, murder, grievous bodily injury, kidnapping, illegal restraints and hostage taking, robbery or theft, smuggling, extortion, forgery, piracy, insider trading and market manipulation... with the aim of either concealing or disguising the illicit origin of the resources or property, or aiding any person involved to evade the legal consequences of his action.

An offence committed under this section attracts a penalty of imprisonment for a term not less than five and not more than ten years.

The provisions of this Act prohibiting the laundering of the proceeds of crime or illegal act for the purposes of financing terrorism are detailed and in line with the recommendations of the Financial Action Task Force (FATF). The United Nations Security Council, through its Security Council Resolution 1617 of July 2005 had recommended that ‘the standard-setting, coordination, and capacity-building efforts of FATF constitute a model for crippling finances of terrorist groups’ (Gardner 2007: 326). On issues relating to money laundering, the FATF has been identified as the ‘lead institution’ (*ibid.*) in the ‘fight to detect and counteract terrorist financing’ (*ibid.*) through money laundering.

In furtherance of this mandate, the FATF has drawn up Nine Special Recommendations expected to be adopted by all states and applied universally. These recommendations *inter alia* seek to:

- (i) make the act of money laundering and financing terrorism a crime;
- (ii) give investigative agencies the authority to trace, seize, and confiscate criminally derived assets;
- (iii) build a framework for cross-national information sharing;
- (iv) extend anti-money laundering requirements to alternative remittance systems;
- (v) ensure that non-profit organisations cannot be misused to finance terrorism (Gardner 2007: 331).

These recommendations were also intended to eliminate the danger posed by money laundering to the fight against terrorism. This danger would be better appreciated through the following analysis in the aftermath of the 11 September 2001 terrorist attacks on targets in the United States (US):

Of the more than \$2 trillion transferred by wire in 700,000 daily transactions, it is estimated that .05 to .1 per cent is laundered, amounting to around \$300 million. Sufficient money is laundered daily to fund 600 to 750 operations similar to the attacks conducted on September 11 (*ibid.*).

It is noteworthy that the 2004 Money Laundering Act established the Economic and Financial Crimes Commission (EFCC), and also in Section 6(b) conferred upon the Commission powers to investigate all suspected acts of financial crimes, including money laundering. This Act, also in Section 24, made provisions for what it termed 'Designated Non-Financial Institution' made up of:

- (i) dealers in jewelleries, cars and luxury goods;
- (ii) chartered accountants, audit firms, tax consultants;
- (iii) clearing and settling companies;
- (iv) legal practitioners;
- (v) hoteliers;
- (vi) casinos, super markets;
- (vii) such other businesses as the Federal Ministry of Commerce or appropriate regulatory authorities may from time to time designate.

A common feature with all these groups is that they come into regular contact with cash transactions by virtue of their professional calling or business. They are therefore required under the Act to keep and maintain proper records of certain categories of transactions, while the regulatory bodies (including the EFCC) have the right to demand and receive such information from them. This power was confirmed by the Federal High Court sitting in Kaduna in the case of *YakubuLekjo and others v. Economic and Financial Crimes Commission* (Unreported Suit No FHC/KD/CS/117/2209). The plaintiffs in this case were car dealers (designated non-financial institution under the Money Laundering (Prohibition) Act) and had urged the court to declare that the EFCC acted outside its powers when it served some documents on some car dealers demanding information on their activities. The court held on this issue that the action of the EFCC was in the proper exercise of the powers conferred on it by Section 24 of the Money Laundering (Prohibition) Act 2004.

The Act required financial institutions to take steps to verify the identity of their customers prior to opening accounts with them by requesting them to provide vital personal information as well as one of the following documents in verification of their identity:

- (i) international passport;
- (ii) driver's license;

- (iii) National Identity Card; or
- (iv) any other document bearing the customer's photograph.

All transactions in excess of 500,000:00 naira or its equivalent (in case of an individual) or 2,000,000:00 naira or its equivalent (in the case of a body corporate) had to be done through a financial institution. Transactions and international transfer of funds and other forms of security in excess of US\$10,000 or its equivalent must be reported to the Central Bank of Nigeria and the Securities and Exchange Commission. Designated non-financial institutions were equally required to immediately notify the EFCC and the National Drug Law Enforcement Agency of all financial transactions in excess of 1,000,000 naira or its equivalent in the case of an individual, and 5,000,000 naira or its equivalent in the case of a corporation, as provided for under Section 10 of the Act.

The 2004 Act was not without its shortcomings – one of which was brought to the fore in the case of the Federal Republic of Nigeria v Ibori & others (Unreported FHC/ASB/IC/09). The first defendant was accused of looting public funds when he served as Governor of Delta State between 1999 and 2007. The allegations against him by the EFCC bordered on alleged money laundering through certain individuals and bodies, both in Nigeria and in the UK, in contravention of the provisions of the Money Laundering (Prohibition) Act 2004. In the course of the trial, the court was called upon to interpret Section 14 of the Money Laundering (Prohibition) Act of 2004 which provides that any person who:

converts or transfers resources or properties derived directly or indirectly from illicit traffic in narcotics drugs and psychotropic substances or any other crimes or illegal act with the aim of either concealing or disguising the illicit origin of the resources or property, or aiding any person involved in the illicit traffic in narcotic drugs or psychotropic substances, or any other crime or illegal act to evade the legal consequences of his action, or... collaborates in concealing or disguising the genuine nature, origin, location, disposition, movement or ownership of the resources property or right thereto derived directly or indirectly from psychotropic substances or any other crime or illegal act, commits an offence under this section and is liable on conviction to a term of not less than two years or more than three years.

It was the contention of the defence that this section, especially the phrase 'any other crime or illegal act' should be interpreted using the *Ejusdem Generis* rule of interpretation of statutes, which provides that where specific words in a statute are followed by some general words, then those general words must be interpreted in line with the words specifically mentioned in the statute. In this case, the general words were 'any other crime or

illegal act' while the specific words were 'the illicit traffic in narcotic drugs or psychotropic substances'. This argument was rightly opposed by the prosecuting counsel. The court however held that the phrase 'any other crime or illegal act', as contained in that section of the law, was restricted to the proceeds of crime from narcotic drugs and psychotropic substances only; and could not be stretched beyond such, as the prosecution had failed to clearly establish a link or connection between the funds over which the accused were prosecuted and dealings in narcotic drugs. According to the court, since the allegation against the first defendant was not in any way related to the illicit traffic in narcotics drugs, psychotropic substances or any other drug-related offence, it would not be proper to apply that section in the present case because:

the words – any other crime or illegal act in Section 14 (1) of the money laundering Act are to be construed *Ejusdem Generis* with those which preceded them and are to be restrictive or limited to funds even remotely connected to illicit traffic in narcotic drugs or psychotropic substances. For a charge under section 14 (1) of the Money Laundering (Prohibition) Act, 2004 to be sustained, the prosecution must first and foremost establish that, or at least link such funds to those directly or remotely made or obtained in the course of illicit traffic in narcotic drugs and psychotropic substances.

The court judgment in this case grossly limited the application of the Money Laundering (Prohibition) Act to funds obtained from illicit traffic in drugs. With all due respect, this reading of Section 14 (1) of the Money Laundering (Prohibition) Act by the court does not reflect the spirit of the law. It is my contention here that this section of the Money Laundering (Prohibition) Act was intended to capture all illegally obtained funds –not merely funds obtained from illicit trafficking in drugs as narrowly interpreted by the court in the case under reference.

Under Section 6 (1) of the 2004 Act, financial institutions are under an obligation to obtain information from their customers on the origin and destination of the funds which are the subject of the financial transaction. The financial institutions are expected to thereafter forward a report of that transaction to the Central Bank, the EFCC, the Securities and Exchange Commission or such other appropriate authorities as provided for under Section 6(2). Since this provision infringed upon professional banker – customer confidentiality, the Act expressly overrules this defence by bankers by making it mandatory for them to divulge such information, especially where the source of the funds appears questionable.

The Money Laundering (Prohibition) Act 2011 contains some innovative provisions that set it apart from the 2004 Act which it repealed

and replaced. The new, subsisting Act sets out not only to prevent money laundering but equally to curb the financing of terrorism. The Explanatory Memorandum of the Act states that this Act:

- (i) provides for the repeal of the money laundering Act 2004 and enactment of money laundering (prohibition) Act, 2011;
- (ii) makes comprehensive provisions to prohibit the financing of terrorism, the laundering of the proceeds of a crime, or any other related illegal act; and
- (iii) provides appropriate penalties and expands the scope of supervisory and regulatory authorities, so as to address the challenges faced in the implementation of the anti-money laundering regime in Nigeria.

This explanation and the specific reference to ‘the financing of terrorism, the laundering of the proceeds of a crime, or an illegal act’ clearly seek to avoid the loophole in the 2004 Act, which was exploited by the defence in Ibori’s case. Section 15 of the Act expanded the scope of crimes beyond the specific mention of drug-related offences as found under the 2004 Act. The list of crimes contained therein appears endless and cover virtually all sources of illicit funds. This section provides that any person who:

- (a) converts or transfers resources or properties derived directly from:
 - (i) illicit traffic in narcotic drugs and psychotropic substances; and
 - (ii) participation in an organised criminal group and racketeering, terrorism, terrorist financing, trafficking in human beings and migrant smuggling, tax evasion, sexual exploitation, illicit trafficking in stolen and other goods, bribery and corruption, counterfeiting currency, counterfeiting and piracy of products, environmental crimes, murder, grievous bodily injury, kidnapping, illegal restraint and hostage taking, extortion, forgery, piracy, insider trading and market manipulation and any other criminal act specified in this Act or any other legislation in Nigeria which is predicate to money laundering with the aim of either concealing or disguising the illicit origin of the resources or property or aiding any person involved to evade the illegal consequences of his action and;
- (b) collaborates in concealing the genuine nature, origin, location, disposition, movement or ownership of the resources, property or right thereto derived directly or indirectly from the acts specified in paragraph 9 (a) of this subsection commits and offence under this section and is liable on conviction to imprisonment for a term not less than five years but not more than ten years.

The Money Laundering (Prohibition) Act 2011 in Section 1(a)–(b) provides that no person or body corporate shall, except in a transaction through a financial institution, make or accept cash payment of a sum exceeding:

- (i) 5,000,000.00 naira in the case of an individual; or
- (ii) 10,000,000.00 naira in the case of a body corporate.

This is more than the limit set under similar circumstances in the 2004 Act which sets the limit of cash payment that can be made or received by an individual at 500,000.00 naira and 2,000,000.00 naira for corporate entities.

Another innovative provision in the 2011 Act is contained in Section 6(10) which grants immunity from civil and criminal liability to directors, officers and employees of both financial and designated non-financial institutions. This immunity removes the cloak of banker–customer confidentiality, thereby making it possible for such officers to report suspicious transactions to the relevant authorities for appropriate follow-up action, including deferring such transactions. The verification of the identity of customers by both financial and designated non-financial institutions is accorded great importance under the Act. This is in line with the need for such institutions to know their customers, in order to keep track of suspicious transactions. The Act therefore provides in Section 3(1) that 'Financial Institution and a designated Non-Financial Institution shall':

- (a) verify its customer's identity and update all relevant information on the customer,
 - (i) before opening an account for, issuing a passbook to, entering into fiduciary transaction with, renting a safe deposit box to or establishing any other business relationship with the customer; and
 - (ii) during the course of the relationship with the customer;
- (b) scrutinise all ongoing transactions undertaken throughout the duration of the relationship in order to ensure that the customer's transaction is consistent with the business and risk profile.

The ability of a financial or designated non-financial institution to keep track of its customers' transactions helps in 'the reconstruction of events once a suspicious situation is identified' (Costa 2010: 33). Citing an example of how the reconstruction of a financial transaction has been linked to the funding of terrorism, Costa referred to the case of Rachid Ramda, editor of the *Al-Ansar* journal in London, who was convicted for his association with subway bombings in Paris in 1995. Part of the evidence consisted of a Western Union money order receipt for a transfer of £5,000 to one of the bombers, which was found in Ramda's lodging and bore his fingerprint (*ibid.*). Before such tracking can be effectively done however, the financial institutions must be able to verify the identity of both prospective and existing customers. Every customers is required under the provisions of Section 3 to supply the following information:

- (i) a valid original copy of an official document bearing his names and photograph or any other identification documents as the relevant regulators may from time to time approve;
- (ii) his residential address, by presenting the originals of receipts issued within the previous three months by public utilities or any other documents as the relevant regulatory authorities may from time to time approve;
- (iii) the certificate of incorporation and other valid official documents attesting to the existence of the body corporate.

The 2011 Act, in Section 2(1) and (2), also imposes a duty to report any international transfer of funds and securities to the Central Bank of Nigeria, Securities and Exchange Commission or the EFCC within seven days from the date of such transaction. The Section specifically provides as follow:

A transfer to or from a foreign country of funds or securities by a person or body corporate including a Money service business of a sum exceeding US\$10,000.00 or its equivalent shall be reported to the CBN, SEC or the Commission in writing within 7 days from the date of the transaction.

This section further provides that the report shall include information such as the nature and amount of the transfer, the names and addresses of the sender and receiver of the funds and securities. However, the noble aim behind the provisions of this section has been defeated by the failure to specify whose duty it is to make the report. Is it the duty of the sender, receiver or financial institution? This is a lacuna that can easily be exploited, especially by parties who want to evade making this disclosure, while hiding under the cover that they had expected the other parties to make the report. This omission in the Act becomes glaring when contrasted with the provisions in sub-sections 3 and 4 of the same section. These sub-sections provide as follows:

- (3) Transportation of cash or negotiable instruments in excess of US\$10,000 or its equivalent by individuals in or out of the country shall be declared to the Nigerian Customs Service.
- (4) The Nigerian Customs Service shall report any declarations made pursuant to subsection (3) of this section to the Central Bank and the EFCC.

These sub-sections made it clear that the Nigerian Customs Service has a duty to report all declarations made to it by individuals transporting, in or out of the country, money in excess of US\$10,000. The reports of all such transactions are to be made to the Central Bank and the EFCC by the Nigerian Customs Service. This duty is clear and unambiguous – in contradistinction with the provisions of sub-sections (1) and (2) of the same section which fail to spell out whose duty it is to make reports to the Central Bank

and the EFCC. The EFCC has been empowered to, upon receipt of such disclosure report or information, demand such additional information as it may deem necessary to enable it carry out further investigations. If, at the conclusion of investigations, the EFCC is unable to ascertain the origin of the fund sought to be transferred, the Commission may defer that financial transaction for a period not exceeding 72 hours. At the expiration of this period, if the Commission is still unable to verify the source of such funds, it may approach the Federal High Court for an order to block the funds, accounts or securities concerned.

The Act, in Section 10(1)(a) and (b), also makes it mandatory for banks and other designated financial institutions to report to the EFCC in writing within seven days (in the case of individuals) and 30 days (in the case of corporate bodies) information of any single transaction, lodgement or transfer of funds in excess of 5,000,000 naira or its equivalent (individuals) and 10,000,000 naira or its equivalent (corporate bodies). This duty to report is also made mandatory for designated non-financial institutions. On the other hand, a person other than a financial institution or a designated non-financial institution can under Section 10(2) volunteer information on any transaction, lodgement or transfer of funds in excess of 1,000,000 naira for individuals and 5,000,000 naira for body corporates. The detailed provisions on the filing of reports by financial institutions, designated non-financial institutions and individuals as contained in Section 10 of this Act creates a sense of responsibility for everyone with relevant information on such transactions. This laudable provision goes a long way in ensuring that the Act fulfils its objective to prevent the laundering of proceeds of crime and the financing of terrorism.

The false declaration or failure to make a declaration on the transportation of cash or negotiable instruments in excess of US\$10,000 or its equivalent by individuals, in or out of the country, to the Nigerian Custom Service is an offence under sub-section (5) of Section 2. This offence is punishable on conviction by imprisonment for a term of not less than two years and forfeiture of not less than 25 per cent of the undeclared funds or negotiable instrument, or to both imprisonment and forfeiture. In the case of *FRN v Aminu Lamido*, the court held that the accused contravened Section 5(2) of the Money Laundering Act 2011 by failing to declare the cash he had on him at the Aminu Kano International Airport, on his way out of the country. The court therefore ordered that he should forfeit 25 per cent of the total amount he had on him at the time of his arrest. Similarly, in the cases of *FRN v Bashir Abdu* (Unreported FHC/KN/C R/210/2012), *FRN v Umar Musa Kibiya* (Unreported FHC/KN/C R/193/2012) and *FRN v Idris Hamza* (Unreported FHC/KN/C R/196/2012) the accused were ordered to forfeit funds ranging from US\$12, 000 to US\$65,000 by the Federal High Court sitting in Kano.

The provisions of the 2011 Act regarding penalties for corporate bodies convicted for offences relating to money laundering have been described as 'too harsh because the other punishments provided as fines to be paid in bulk, suspension, revocation or withdrawal of license are deterrent and punitive enough' (Ladan 2013). The penalty, as provided in Section 19 of the Act, is that upon conviction the corporate body shall be ordered by the court to be wound up and all its assets and properties forfeited to the Federal Government. Although this penalty may indeed appear to be harsh, the havoc caused by money laundering especially as a means of financing terrorism by corporate bodies and charitable organisations make these the ideal penalties for any nation desirous of preventing terrorism. Hiding under the guise of charitable organisations, some corporations have been known to serve as conduits for laundering proceeds of crimes and funds meant for terrorist groups.

The imposition of stiff penalties on banks and corporate bodies for involvement in or failing to report suspicious transactions is not limited to Nigeria. The US has had cause to resort to these measures on several occasions. For instance, the United States Federal Reserve Board recently fined the US arm of UBS AG US\$100 million for funnelling US\$5 billion to countries such as Cuba, Iran and Libya (Weiss 2005: 3). Similarly, for failing to report what was described as 'unusual transactions', (Weiss 2005: 4) the Riggs Bank was fined US\$25 million in May 2004 (*ibid.*). If Nigeria can summon the political will to implement the provisions of the Money Laundering (Prohibition) Act, financial and designated non-financial institutions will be more vigilant in monitoring transactions and reporting suspicious and unusual transactions to the relevant authorities.

The financing of terrorism through what has come to be known as the 'new economy of terror' (Barber 2011: 1) also has money laundering as an integral part. It has been credited with 'generating vast amounts of money ... with a turnover of about \$1.5 trillion, twice the GDP of the United Kingdom' (Napoleoni 2005: xviii–xix). The laundering of money is done 'through seemingly legitimate banks, financial structures, trusts and charities, to the actual, direct or indirect support and logistical systems for Islamist terrorist groups and cells throughout the world' (Barber 2011: 3). The FATF Report 2008 states that the laundering of money through charities by terrorist groups for the purpose of financing terrorism has been facilitated by several factors including the considerable public trust which charities enjoy. This public trust is based largely on the perception of charities and non-profit organisations as groups rendering indispensable humanitarian services, especially in regions ravaged by conflicts and crisis.

This perception therefore exempts charities from the type of financial and administrative scrutiny which other bodies and groups are subjected to – and therein lies their attractiveness to terrorist groups who are ‘looking to minimise risk to their own operations and logistical networks’, (FATF Report 2014), and for whom ‘piggybacking on, or mimicking, legitimate non-profit organisations has presented an attractive solution’ (*ibid.*). Secondly, most charities enjoy a global presence since they are available in nearly all continents of the world. This physical presence, international operational framework and the availability of funds from donors make them attractive to terrorist groups as a means of laundering money.

Prosecution of money laundering cases

Section 20 of the Money Laundering (Prohibition) Act 2011 has vested exclusive jurisdiction on the Federal High Court for the trial of cases involving allegations of money laundering. The Act provides that the ‘Federal High Court shall have exclusive jurisdiction to try offences under this Act’. The Act further provides that evidence of possession of pecuniary resources or property which an accused person cannot satisfactorily account for and which is above his known income may be taken as corroborating the evidence of any witness in the trial.

The power to demand, obtain and inspect the books and records of the financial institution or designated non-financial institutions to confirm compliance with the provisions of the Act has been vested in the Director of Investigations or any other officer of the Ministry, Commission or Agency duly authorised to act in that regard under Section 21. Any person who obstructs such an officer and prevents him from discharging his duties under this Act, shall be liable upon conviction to imprisonment for a term of at least two years (in the case of an individual) or a fine of 1,000,000 naira (in the case of corporate bodies or financial institutions) as provided for under Section 22 of the Act.

Economic and Financial Crimes Commission (Establishment) Act 2004

The Economic and Financial Crimes Commission (Establishment) Act 2004 constitutes an important legislation in the fight against corruption in Nigeria. The Act provides for the establishment of the body known as the EFCC with a mandate *inter alia*:

- (i) to investigate all financial crimes including advance fee fraud, money laundering, counterfeiting;

- (ii) to examine and investigate all reported cases of economic and financial crimes with a view to identifying individuals, corporate bodies or groups involved;
- (iii) to collaborate with government bodies both within and outside Nigeria carrying on functions wholly or in part analogous with those of the commission concerning
 - a) the identification, determination of the whereabouts and activities of persons suspected of being involved in economic and financial crimes;
 - b) the movement of proceeds or properties derived from the commission of economic and financial and other related crimes;
 - c) the exchange of personnel or other experts;
 - d) the establishment and maintenance of a system for monitoring international economic and financial crimes in order to identify suspicious transactions and persons involved;
 - e) the undertaking of research and similar work with a view to determining the manifestation, extent, magnitude and effects of economic and financial crimes, advising government on appropriate intervention measures for combating same.

Of particular interest is the provision of the Act relating to terrorism. Prior to the enactment of the Terrorism (Prohibition) (Amendment) Act, the only law relating specifically to the offence of terrorism in Nigeria was the Economic and Financial Crimes Commission The Act. Act provided for the offence of terrorism in Section 14(1) to the effect that any person 'who willfully provides or collects by any means, directly or indirectly, any money with intent that the money shall be used or is in the knowledge that the money shall be used for any act of terrorism, commits an offence under this Act and is liable on conviction to imprisonment for life'.

The nexus between the EFCC and terrorism revolves around the financing of terrorism. By the provision of this section, the provision and collection of money with the knowledge that such would be used for an act of terrorism is enough to constitute an offence. The mere provision of money which is eventually used by the recipient for an act of terrorism would not suffice. It is essential that the money must have been provided and collected with the knowledge that the money is meant for the execution of an act of terrorism. In this regard, the knowledge supplies the *mens rea* while the actual act of terrorism constitutes the *actus reus* of the offence. The penalty for this offence (imprisonment for life) underscores the vital role played by finance in the commission of acts of terrorism, and is an appropriate punishment for the offence.

Apart from serving as a fitting punishment for those who fund or receive funds for the purpose of committing acts of terrorism, the punishment has the added advantage of serving as a deterrent for persons who otherwise would have provided funds to terrorist groups. The prospect of serving a life imprisonment sentence is enough to discourage would be financial sponsors of terrorism and outweighs whatever benefit they hope to gain from the venture. A similar penalty is provided for persons who attempt to commit or facilitate the commission of a terrorist act in Section 14(2), or who make funds, financial assets or other related services available for use by any other person to commit or attempt to commit a terrorist act under Section 14(3). This penalty is also appropriate, for the purpose of both punishment and deterrence, as argued earlier.

The EFCC also plays a critical role in the fight against terrorism by virtue of the powers vested in the Commission under the Money Laundering (Prohibition) Act. The Money Laundering (Prohibition) Act 2011 in the Interpretation section (Section 25) defines 'commission', copiously referred to in several sections of the Acts, as meaning the EFCC. The powers and responsibilities vested in the Commission by this act on issues relating to the laundering of funds for the purpose of financing acts of terrorism include inter alia:

- (i) the right to be informed of any transfer to or from a foreign country of funds in excess of US\$10,000 or its equivalent in writing within seven days of the transaction;
- (ii) the right to receive reports on suspicious transactions involving terrorism financing;
- (iii) the power to place a 'stop order' on any account or transaction suspected to be involved in the commission of a crime; and
- (iv) the power to obtain an order from the High Court to place a suspicious account under surveillance.

In the exercise of these and other powers conferred on the Commission, it has successfully prosecuted several cases dealing with money laundering in the Federal High Court; for example, the cases of *FRN v Aminu Lamido*, *FRN v Bashir Abdu* earlier referred to. However, the prosecution and conviction rates have not been as high as expected, owing in part to delays encountered in the course of the trials of such offences. The trials are sometimes stalled by the filing of series of motions and applications by the defence (Ladan 2013). Ladan states that 'In plethora of these cases, the trials hardly go beyond the initial stage of arraignment before being stalled, owing to multiple preliminary applications ranging from challenges of territorial jurisdiction of the trial courts, the propriety of the indictments/

charges' among other objections (*ibid.*: 12). Arguing along the same lines, Anaedozie states that the Commission has blamed its poor conviction records on factors such as 'the justice system that permits accused persons to use frivolous technicalities to delay the course of justice and this is often done in orchestrated conspiracy and connivance of some lawyers and court judges' (2016: 24). A way out of these delays may lie in the creation of specialised courts devoted solely to the trial of crimes related to terrorism and the reformation of the criminal justice system in such a way that would eliminate the technicality of unending preliminary objections and create a time-frame for the trial of terror-related offences.

Conclusion

Terrorism the world over can barely be separated from violence, destruction and death. This is because, by its very nature, terrorism thrives on violence and the instilling of fear in the target population. Like other countries that are vulnerable to terrorism, in the past few years Nigeria has been under the siege of terrorist groups who have wrecked incalculable havoc on the Nigerian state and its citizens. Terrorism in Nigeria, especially that which is unleashed on the country by the Boko Haram terror group, has had devastating effects on the country and its citizens. The bid to stop the activities of this group and prevent a resurgence of terrorism led to the enactment of legislation such as the Terrorism (Prevention) (Amendment) Act 2013, the Money Laundering Act 2011 and the Economic and Financial Crimes Commission Establishment Act 2004.

The success of the Nigerian legal framework on terrorism is however hinged on its ability to cut off the sources of finance of Boko Haram and other terrorist organisations. Finance is the heart beat of terrorism and any effort aimed at putting an end to the activities of terrorist groups must take this into consideration. Nigeria has, in recognition of this fact, taken steps to cut off the sources of finance available to terrorist organisations. This article has analysed these efforts as contained in the different laws which prohibit the financing of terrorism by individuals and corporate bodies.

In recognition of the important role played by finance in sustaining terrorism, the Nigerian Terrorism (Prevention) (Amendment) Act 2013 has made provisions prohibiting the financing of terrorism by any person, group or organisation. The Money Laundering Act which forms an integral part of the legal framework on terrorism also contains provisions prohibiting the laundering of funds for the purpose of financing terrorism, among others. The Money Laundering (Prohibition) Act of 2011, in its explanatory memorandum:

- (i) provides for the repeal of the Money Laundering Act 2004 and enactment of Money Laundering (Prohibition) Act, 2011;
- (ii) makes comprehensive provisions to prohibit the financing of terrorism, the laundering of the proceeds of a crime, or an illegal act; and
- (iii) provides appropriate penalties and expands the scope of supervisory and regulatory authorities so as to address the challenges faced in the implementation of the anti-money laundering regime in Nigeria.

This Act is clearly intended to serve as a medium for combatting the menace of money laundering and the financing of terror. The emphasis is therefore on the detection of money laundering for the financing of terror and the need for financial institutions to strictly adhere to the guidelines on customer identification and suspicious transaction reporting to the relevant bodies. The finding however points to the fact that terrorists hardly rely on money laundering as a means of funding their activities. More reliance is placed on money received through illegal channels from sponsors and affiliates outside the country, proceeds from crimes (for example armed robberies and kidnapping) and personal funds of members of the group. The efficacy of the Money Laundering (Prohibition) Act as a tool for combatting terrorism is therefore questionable. The provisions on the financing of terror, as contained in the Terrorism (Prevention) (Amendment) Act 2013, are more appropriate tools in this regard and the implementation of its provisions is bound to cut off the sources of finance to Boko Haram and bring an end to its reign of terror. The international nature of the activities of Boko Haram makes it imperative that the countries most affected (Nigeria, Chad, Cameroon and Niger) come together to devise counter-terrorism measures that would cut off the sources of finance available to this group, in order to curb its activities (Rosendorff and Sandler 2005:176).

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Illicit Financial Flows in Southern Africa: Exploring Implications for Socio-economic Development

Vusi Gumede* and David Fadiran**

Abstract

This article views Illicit Financial Flows (IFFs) as any illegal and corrupt practice to acquire money without the due process that is in line with international financial and trade regulatory frameworks. Based on this working definition, the article explores IFFs in the mining sectors in four countries (the Republics of Botswana, Namibia, South Africa and Zimbabwe) with a specific focus on the socio-economic implications for communities in the mining or former mining areas. Measurement issues are also attempted. Indeed, IFFs have severe implications for the communities (as for countries). Although the results are mixed, regarding the quantification of IFFs in the mining sector, it is clear that IFFs have major negative effects on welfare and political stability. Estimates show high levels of IFFs through trade mis-invoicing for the mining sector in all the four countries.

Résumé

Cet article considère les flux financiers illicites (FFI) comme toute pratique illégale et corrompue visant à obtenir de l'argent sans procédure régulière et non conforme aux cadres de réglementation financière et commerciale internationaux. Sur la base de cette définition de travail, l'article explore les flux financiers illicites dans les secteurs miniers de quatre pays (Afrique du Sud, Botswana, Namibie et Zimbabwe), en mettant l'accent sur les implications socio-économiques pour les communautés des zones minières actuelles ou anciennes. Des problèmes de mesure sont également tentés. En effet, les FFI ont de graves conséquences pour les communautés (comme pour les pays). Les résultats sont mitigés quant à la quantification des FFI dans le secteur minier, mais il est clair que les FFI ont des

* Professor, Editor-in-Chief, *Africa Insight & Africanus: Journal of Development Studies*, University of South Africa. Email: gumede.vusi@gmail.com

** University of South Africa. Email: alamu3@gmail.com

effets négatifs majeurs sur le bien-être et la stabilité politique. Les estimations montrent des niveaux élevés de FFI pour le secteur minier dans les quatre pays résultant d'une erreur de facturation commerciale.

Introduction

Illicit Financial Flows (IFFs) out of sub-Saharan Africa have been shown to surpass foreign aid inflows into the continent, according to Kar and Cartwright-Smith (2010). Research confirms that the problem of IFFs in Africa requires attention. Kar and Cartwright-Smith (2010) also submit that if funds 'lost' through IFFs were to be reinvested into the African continent, the quest and scramble for Foreign Direct Investment (FDI) on the continent would not be needed. The IFFs and capital flight literature confirms that IFF levels are high. What is often not examined in the literature is the empirical evidence of how IFFs impact on the domestic economy. Can such dynamics be traced to industry and commodity levels? This article attempts that, over and above examining the socio-economic implications of IFFs. The research that informs this article studied four countries in Southern Africa (South Africa, Zimbabwe, Botswana and Namibia), focusing on the mining sector.

The relationship between IFFs and many other macro-economic phenomena has been examined in the literature, such as: capital flight/IFFs and institutions, IFFs and natural resource wealth, IFFs and corruption, IFFs and debt, and many more (see Fedderke et al. 2002; Boyce and Ndikumana 2001; Le and Zak 2006; Fadiran and Sarr forthcoming; Kar and Cartwright-Smith 2010). Most of these studies utilised IFFs and capital flight estimates that were available at the time, which mostly involved drawing from balance of payment errors. Some of these estimation techniques are no longer used. With the availability of new datasets on trade monitoring across the globe, coupled with the increased interest in the flow of illicit funds out of Africa, this article estimates IFFs with a focus on the diamond and platinum mining sub-sectors in the four countries that the study deals with.

The next section deals with the fieldwork undertaken, then followed by a section dealing with estimation techniques, then empirics and estimation. The article discusses implications before concluding. Indeed, IFFs have severe implications for the communities (as for countries). Although the results are mixed, regarding the quantification of IFFs in the mining sector, it is clear that IFFs have major negative effects on welfare and political stability. Estimates show high levels of IFFs through trade mis-invoicing in all the four countries, with regard to the mining sector.

Socio-economic development implications

Human development remains relatively low in many African countries, including countries in the Southern Africa sub-region (Gumede 2018). IFFs contribute to this because monies that should be used in advancing the well-being of the masses are 'lost' instead of being put into socio-economic development projects. Similarly, as demonstrated in Gumede (2018), poverty and inequality remain very high in Southern Africa. Indeed, the study of IFFs suffers from both methodological and conceptual complexities and confusions. For instance, there has been a high tendency among scholars to confuse capital flight with IFFs. Bokosi and Chikumbu (2015) argue that 'there is often an information asymmetry between African governments and investors in the mining sector, which results in tax avoidance through the under-reporting of the quantity and composition of minerals'.

As indicated above, this part of the article deals with data collected in selected communities in South Africa and Namibia. Fieldwork could not be successfully undertaken in Zimbabwe and Botswana because necessary permissions were not secured, and the research relied on other sources and observations. It is important to indicate that the study focused primarily on government departments, mining communities. It initially also intended to interview mining companies but that was not undertaken due to both logistical challenges the view that information from management/owners of mining companies are not trustworthy. For South Africa, the communities (in mining areas) where fieldwork was undertaken were in the Sekhukhune region in the Limpopo Province and Bapong community of the North West Province. The Namibian community studied was based in Lüderitz which falls under the Karas Region. In South Africa, the focus was on platinum while in Namibia the attention was on diamonds.

The extent of IFFs in the studied countries is large. Dikuelo (2016), for instance, argues that Botswana is among Southern African countries that are prone to IFFs with up to P200 billion estimated to have been moved illegally over 10 years up to 2013. The Global Financial Integrity (2015) also notes that between 2004 and 2013, a whopping sum of US\$ 20 billion might have been transferred out of Botswana in form of IFFs. According to Global Financial Integrity (2015), Namibia lost R17 million in 2012 which had increased to around R30 million in 2015. For South Africa, the Davis Tax Committee and the South African Revenue Service estimated that South Africa lost R25 billion between 2000 and 2014. Regarding Zimbabwe, Global Financial Integrity (2015) estimates that Zimbabwe lost about US\$ 12 billion over the past three decades. The mining sector constituted the main avenue for IFFs in Zimbabwe, with US\$ 2.7 billion lost in the sector as against other sectors such

as wildlife, fisheries and timber where US\$ 15 million, US\$ 28 million and US\$ 17.5 million were lost respectively (Bhebhe 2015). Ncube and Okeke-Uzodike (2015) provide a political analysis of the high incidences of IFFs in Zimbabwe. They traced the politicisation of the bureaucracy and the general public life to the incursion of endemic corruption in the country.

Overall, fieldwork confirmed that IFFs are negatively impacting on socio-economic development in the communities in mining and former mining areas. It is also interesting that there appears to be good capacities for dealing with IFFs, at least for South Africa and Namibia (the two countries that were studied in detail). The capacities referred to include

- (i) the human capacity (trained personnel, correct skills match for analysing mining related IFFs) of government institutions to detect and resolve the problems of trade mis-invoicing, regulation of transfer pricing and tax evasion in mining specifically;
- (ii) the ability of government institutions and personnel to formulate, implement, monitor and evaluate the requisite policies to address the problem of trade mis-invoicing, regulation of transfer pricing and tax evasion in the mining sector;
- (iii) the credibility of the institutions collecting revenue from the mining companies to resolve the problem of trade mis-invoicing and regulate transfer pricing and tax evasion in the mining sector. To enhance socio-economic development in the communities, it is important that there is better coordination among all role-players (i.e. mining companies, community leaders, government representative, etc). Policy and legislation would also greatly help. For South Africa, for instance, there are social and labour plans but these are not implemented effectively for the benefit of communities. It would also be useful to have legislation that very specifically deals with IFFs.

Extent of IFF in the two sectors and in the four countries

With regard to platinum, in South Africa between 2000 and 2015, a total of US\$ 323.3 is estimated for the computed IFFs in real value (nominal was approximately US\$ 242 billion). In Zimbabwe, the computed IFF obtained a value of US\$ 11 trillion in real terms (nominal obtained approximately US\$ 12 trillion).¹ Most of the measures recorded a negative (under-invoicing) for South Africa while it seems Zimbabwe was the opposite, with a positive (over-invoicing) value.

In the diamond sector, looking at the period 2000 to 2015, when considering the quantity traded differences and a non-monetary signal of IFF, the measure obtained -594, 1,530, -252, and -93 for Botswana, Namibia, South Africa and Zimbabwe respectively. When considering the net weight and unadjusted trade value differences, which we also use

as proxy for IFF, the values were approximately 12,509 KGs and US\$ 19 billion for Botswana; 108,801KGs and US 23 billion for Namibia; -10 million KGs, and US\$ -39.6 billion for South Africa; and 84,820 KGs and US\$ -208 million for Zimbabwe. The net weight differences and the trade value difference do not always correspond together in sign, as with the Zimbabwean diamond sector.

Given that computed IFF is derived from the net weight differences in trade flows, it always corresponds, whether the difference is positive or negative. In a similar manner to the platinum sector, a negative difference signals that the values declared by the exporting country are smaller than the value declared by the importing country. This implies that a possible under-invoicing has occurred, while a positive value implies the opposite. The computed IFF for each of the four countries' diamond sector reported US\$ 364 million for Botswana, US\$ 1 billion for Namibia, US\$ -55 billion for South Africa and US\$ 5.5 billion for Zimbabwe. The highlight is that the values for estimated IFF for all four countries in the diamond sector alone are quite alarming, especially when these numbers are considered in light of the size of each economy.

Estimation techniques

The nature of IFFs is such that they are often directly or indirectly linked to a country's natural resources. Therefore, the availability of a new dataset, such as the United Nations Commodity Trade (UN COMTRADE) 2015, the Centre d'Etudes Prospectives et d'Informations Internationales (CEPII) dataset, and the International Monetary Fund Direction of Trade Statistics (IMF DOTS), all make enquiry into lower levels of trade flows feasible. Given the level of IFFs from South Africa, examining the nature of IFFs within one of its richest sectors might shed some more light on the nature of IFFs in the country (UNECA 2015a; 2015b). This applies to both the diamond and platinum mining sectors. In a similar manner, diamond mining accounts for major revenue sources for Botswana, Namibia and Zimbabwe.

A few disclaimers need to be highlighted regarding the estimations undertaken. Given the very nature of IFFs, they are not meant to be observed; so any estimation thereof will have some inaccuracies. In the IFFs literature, there are three main categories:

- (i) IFFs that emanate from corruption in the form of embezzlement and bribery by officials in government;
- (ii) IFFs that emanate from laundering of money from different forms of illegal activities; and
- (iii) IFFs that emanate from tax evasion and attempts by firms to move money between borders.

The third category accounts for most IFFs in Africa and the developing world, and are the sort of IFFs that countries worry about, since these represent funds that could be going towards growing the domestic economy (Hummels and Lugovskyy 2006; Mevel, Vakataki'Ofa and Karingi 2013).

In calculating estimates for IFFs, it is important to keep in mind that the very nature of IFFs seeks to avoid direct observation, and as such any estimates of IFFs will be just that: estimates. Nevertheless, estimation techniques often attempt to avoid as many errors as possible so that the final results are not overly over-estimated or under-estimated. Before diving into the methodology of the estimation technique opted for, previous existing methodologies are briefly discussed. There are several methods in the literature, and some are adaptations of some of the older methods. The balance of payment approach is one of the older methods in the IFF/capital flight literature. This method was introduced by Cuddington (1986). In this approach, IFF/capital flight is calculated as the total outflows of private short-term capital plus errors and omissions. There are obvious problematic assumptions intrinsic in the definition, in that it assumes no other form of IFF occurs in the economy be it in the form of long-term capital flows or trade mis-invoicing both of which can lead to an overall ambiguity in the calculations. This is also known as the *hot money method*. The direct measure approach developed by the Bank of England (in 1989) captures IFFs as cross-border bank deposits by private residents. This method, while simple, narrow and precise, neglects the significant portion of IFFs carried out by multinational corporations and so, more specifically in reference to the goals of this study would be inadequate.

The indirect measurement method focuses on the difference between increases in external debt plus FDI inflows and current account deficits. This difference is then added to the increase in official reserves. This approach was at the time adopted in some studies by the World Bank (2016a; 2016b), Guaranty (1986) and Pastor (1990). The main issue with this approach is that it may over estimate IFFs since its definition in some ways is not mutually exclusive from what actual capital flows capture in the form of reserves and FDI. The residual measurement approach calculates it by taking foreign assets which do not yield any investment income, the premise being that any differences between officially and unofficially declared capital holding abroad would signal IFFs. This method is however highly dependent on the accuracy of the balance of payment accounts, and as we know for a lot of sub-Saharan African countries, macro-economic accounting accuracy can be dicey. This method is often referred to as *the Dooley method* (Fedderke and Liu 2001; Mevel, Vakataki'Ofa and Karingi 2015). Other adaptations of the said methods include capital flight estimations by Boyce and Ndikumana (2001) and Ndikumana and Boyce (2008; 2012).

The trade mis-invoicing approach is one that has been around since concerns about IFFs have been raised in literature, however methods of capturing this as an estimate for IFF have improved overtime. One recent approach in this same vein is the DOTS. This measurement approach uses trade mis-invoicing in comparing bilateral trade statistics between countries on the same trade flow. In essence, the method would look at South Africa, for example, and compare the recorded exports of diamonds by South Africa to Zimbabwe, to the recorded imports of diamonds by Zimbabwe from South Africa. This forms the foundation for the DOTS approach as well as the approach used (an adaptation of the DOTS approach) in that it differs slightly in a few ways: how import records and export records of a trade flow are converted to a singular unit for consistency and comparison; how time lags and delays are computed; and the overall decomposition of the trade data to obtain the said trade mis-invoice (Mevel, Vakataki'Ofa and Karingi 2015).

In more specific terms, while the DOTS informs a significant portion of the estimation technique used for this article, the main differentiating points lie in the fact that DOTS is captured at the country level, in which case focusing on a particular sector or commodity (as in this study) would be impossible. The COMTRADE data set reports trade flows for commodities up to the 6-digit level. However, for this report, diamond and platinum are considered at the 4-digit level. Furthermore, in adapting the IMF DOTS methodology, one needs to be aware of the purpose for which the data was originally compiled, and that is to accurately compile balance of payment account and track trade statistics. As such, a few problems arise when employing the same methodology to track bilateral trade flows between countries. The main issue being with comparison of trade statistics captured by two different countries.

The records of trade statistics captured by the exporting country is often captured free on board (FOB). Trade values that are captured FOB imply that the cost of delivery of the goods are the importer's responsibility once they leave the exporter's port. On the other side of the trade flow, the importer captures the trade value as inclusive of cost, insurance and freight (CIF). This is encouraged by trade monitoring organisations, including the UN COMTRADE. The problem however arises when the same trade data is to be used to track possible trade mis-invoicing, which is often an avenue for IFF. There is therefore a need to find a comparative ratio to convert the FOB inclusive trade value to CIF inclusive trade value or vice versa. While this has been attempted by researchers in the past, it is often more difficult to construct such a ratio for sub-Saharan African countries. Not surprisingly, this has been done for many Western countries, however most of the existing database do not show this data for the four countries considered in this article.

Another often encountered obstacle, as is the case with South Africa, is when both the imports and exports are reported as FOB.

To circumvent this, the trade units rather than the trade values are used as proxies for trade mis-invoicing. The COMTRADE dataset reports five different measures for each product it captures. These are:

- (i) Quantity unit code,
- (ii) Quantity unit,
- (iii) Alternative quantity unit,
- (iv) Net weight in kilograms, and
- (v) Trade value in US\$.

When we compare these same measures between the reported data by the exporting country and importing country, there still exists a discrepancy. Often, the reported export quantity and weight are lower than the reported import quantity and weight. This was the case for Botswana, South Africa and Zimbabwe, with Namibia being the only exception among the four countries. Without adjusting the CIF trade values, the exports and (imported from).

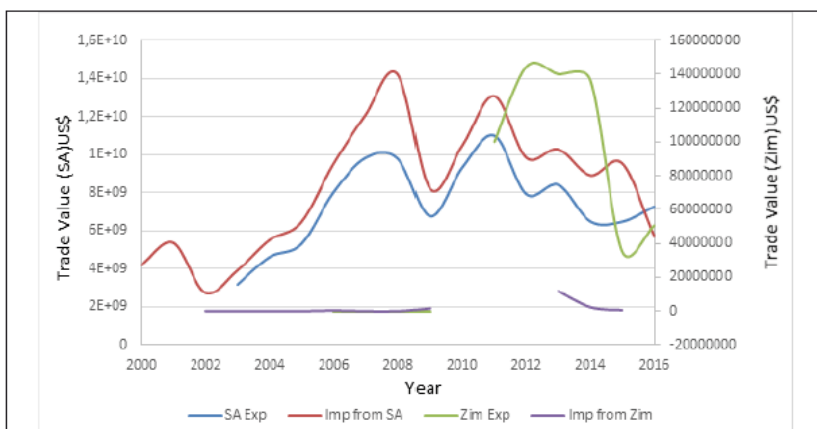
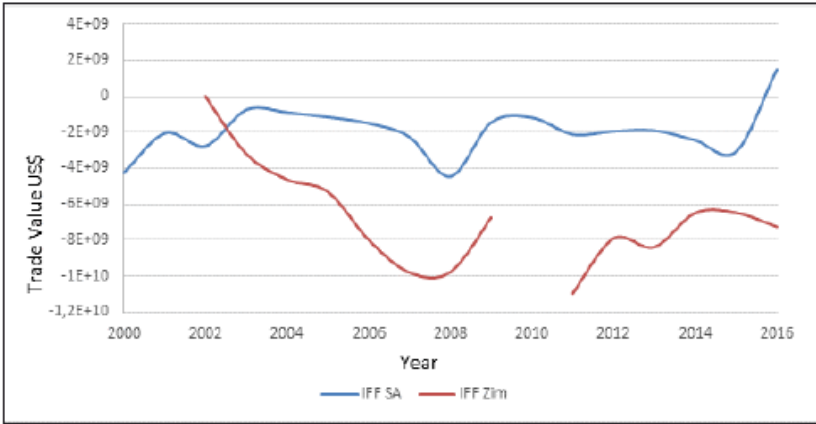


Figure 1: Platinum exports and imports from trading partners, 2000–16

Source: Various sources compiled by the research team, UN COMTRADE

Values for each of the four countries in the diamonds goods market, and for Zimbabwe and South Africa in the platinum goods market are presented in Figures 1 to 5.



Source: Various sources compiled by the research team, UN COMTRADE

The Figures show a significant gap between reported exports by exporting, and the bilateral reported imports from their respective trading partners, in the trade flows. Admittedly, the aggregation of the data into annual data may have contributed to this discrepancy. In the balance of payment and trade tracking literature, studies often consider this discrepancy as either representing transportation costs (i.e. the CIF and FOB interrelations) or representing errors in accounts. In fact, it is through the computation and matching of trade flows that organisations such as the IMF, CEPII and authors such as Hummels and Lugovskyy (2006) and Gaulier et al. (2008) have tried to calculate freight and transportation costs between countries. In addition to this, there are other complications that may have caused this inconsistency, which are not necessarily down to IFF alone. Such include differences in product classification, time lags between recording of exports dispatch and its delivery, exchange rate differentials, different product valuation (this is pertinent in the case of diamonds, where pricing is highly variable across time and space). Therefore, one needs to keep such complications in mind when deducing IFFs from such discrepancies (Hummels and Lugovskyy 2006; Gaulier et al. 2008; Gaulier and Zignago 2010; Mevel, Vakataki’Ofa and Karingi 2015).

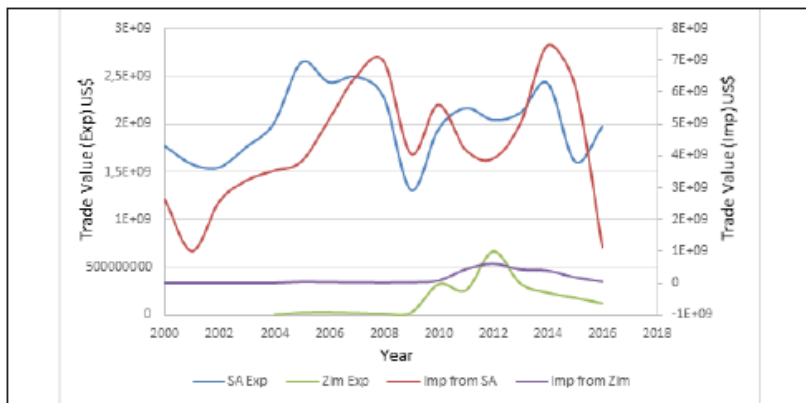


Figure 3: Diamond exports and imports from partners for South Africa and Zimbabwe, 2000–16

Source: Various sources compiled by the research team, UN COMTRADE

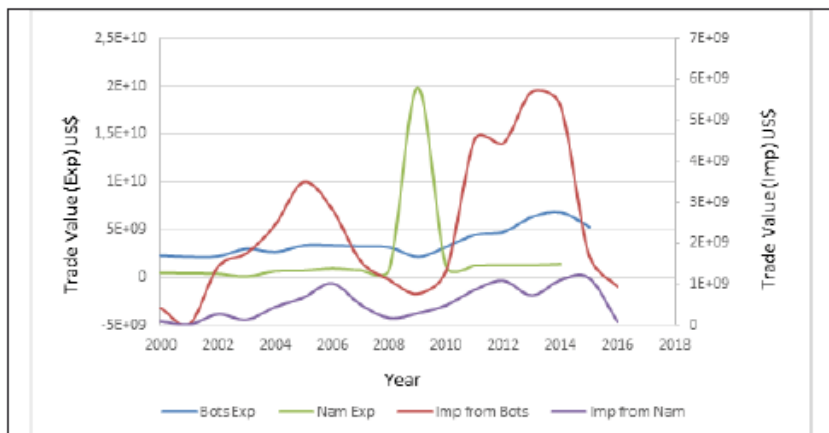


Figure 4: Diamond exports and imports from partners for Botswana and Namibia, 2000–16

Source: Various sources compiled by the research team, UN COMTRADE

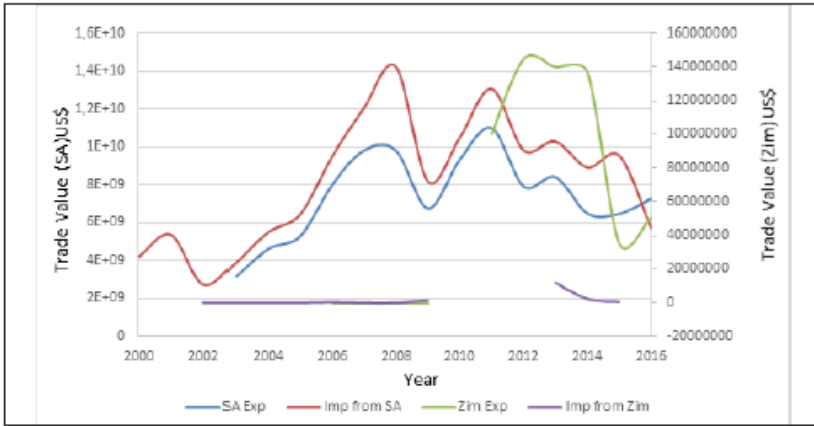


Figure 5: Unadjusted IFF within the diamond commodity market, 2000–16
Source: Various sources compiled by the research team, UN COMTRADE

Data and estimates

As indicated above, a host of data sources were used. Care was taken in ensuring that the measurement scales are consistent throughout for all measures used. The data sources include: UN COMTRADE (2015), World Bank, IMF DOTS, the CEPII BACI database, U.S. Geological Survey; Menzie et al. 2013; Minerals Program, publications from the chamber of mines, and departments of mineral resources of Botswana, Namibia, South Africa and Zimbabwe. The COMTRADE data provided the core variables to capture trade flows of diamond and platinum. In the COMTRADE data, there are about 5,000 products, for about 200 different countries, and products are tracked up to the 6-digit level, following the harmonised system nomenclature. It currently goes as far back as 1960 for some countries. However, for most sub-Saharan African countries, the time span is limited. The data also has monthly level data from 2012 and above for the four countries considered.

Deciding on a dependent variable to gauge the possible impact of IFFs from the two sectors considered, data availability was a major player. On the one hand, a measure that is capable of reflecting changes in the mining sector as much as possible was selected. On the other hand, this should be a measure that is readily available for the period for which IFF from these two sectors is being studied. For South Africa, it may be possible to obtain such data from various sources, such as the National Treasury, and household surveys. The problem however arises when trying to obtain similar data

from the three other countries (i.e. Botswana, Namibia and Zimbabwe). This prompted the exploration of employment in the mining sector. While employment is not a direct measure of welfare, relative to other possible measures, we opted for this measure as data related to it was available in all four countries. Employment (or unemployment) is the sound alternative measure in the absence of data for more direct welfare measures.

The other measure used is the political stability index from the World Bank. This measure captures the likelihood of political instability or politically motivated violence. The index is constructed using a composition of many different variables, including social unrest, internal conflict, protests and riots, intensity of violent activities of underground political organisations, etc. In South Africa, Namibia, Zimbabwe and to a lesser extent Botswana, a significant portion of protests and strikes occur within the mining sectors. Therefore, political stability is an ideal measure of one of the possible avenues of impact of IFFs.

To extract bilateral trade flows pertaining to diamond and platinum, a decision was taken to determine what category of the two products the study would capture. At the 6-digit level, both products are often mixed with other products in the form of coating and jewellery mixes. Therefore, two commodity codes were identified to capture diamond and platinum respectively: 7102 & 7110. In the COMTRADE data, the two commodity codes are defined as: 7102 – ‘*Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coin // Diamonds, whether or not worked, but not mounted or set*’; and 7110 – ‘*Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coin // Platinum, unwrought or in semi-manufactured forms, or in powder form*’. Therefore, only these two commodities were identified to capture trade flows in the diamond and platinum sectors of the four countries considered.

As far as timeframe is concerned, the data goes farther back than 2000. However, as is often the case when dealing with aggregated data in Southern Africa, there are also a few missing observations, limiting the period to 2000 and later. While the initial plan was to consider the period 2005–15, the small number of cross-sections and the short time span of 11-year annual data would be incapable of any trustworthy quantitative analysis. The lack of monthly data over the desired period also forced the use of annual data, albeit over a slightly longer period of 2000 to 2015. To compute a trade value that is independent of the individual countries’ product valuation, and hence avoid the CIF/FOB measurement debacle, the average diamond

prices reported in the U.S. Geological Survey yearbooks for diamond was used, while the platinum prices provided by the World Bank Global Economic Monitor (GEM) Commodities database was used. To proxy for welfare, the employment by the mining sector in each country was used. Data on the individual commodity market employment was not available for all the countries. In addition, tax contribution by the mining sector was also considered, but such data were hard to come by. Only Namibia had the requisite data for this. The graph in Figure 6 plots the computed IFFs and contribution of diamond mining to Namibia’s tax revenue.

To compute the IFFs, it is recommended that the ratio of CIF/FOB should be obtained, and then one of the two measures be converted to the other. Only after this can the differential between the reported bilateral trade flows be considered an estimate or signal IFFs. The data for calculating the CIF component of imports or the FOB component of exports is available for many countries on the BACI database. However, the data for Botswana, Namibia, South Africa and Zimbabwe are not provided here. This makes it almost impossible to construct the CIF/FOB ratio for these countries, due to the nature of data required for it. We therefore make use of the quantity and net weight measures provided by COMTRADE, and obtain the average selling price per carat of industrial diamond for the years 2000 to 2013. This was provided in the annual yearbook reports of the U.S. Geological Survey. The obtained average diamond price is then used to construct a computed IFF that is free of either CIF or FOB.

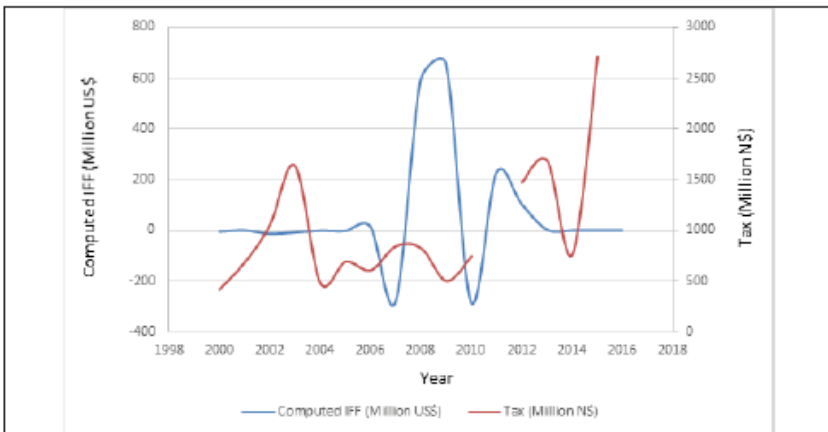


Figure 6: Diamond mining contribution to tax revenue, and IFF (Namibia)
Source: Various sources compiled by the research team, Chamber of Mines, Namibia

This is possible, since the immediate concern of this article is not with transportation costs of trade, but rather the mis-invoicing that occurs within trade, and possible facilitation of IFF from it. This will be used as one of the proxies for IFF in our empirical analysis.

Lastly, total diamond and platinum production in each country was obtained and used as a control variable in the analysis. This measure was also obtained from U.S. Geological Survey country annual reports, although the same data could also be found in the publications of institutions dealing with mining in each of the countries studied. This however has numerous missing data. The U.S. Geological Survey reports were opted for, for the sake of consistency. Although Botswana and Namibia are not typically known as platinum producing countries, in the data these two countries still feature as top platinum producing countries in the world. The mining of platinum is however a recent phenomenon in both countries; as such, data on the production, exports and imports from the two countries are sparse and cover a relatively short period. Another variable considered for gauging welfare includes political stability, while other variable to be controlled for or used as instruments include trade, mineral rents, natural resource rents, gross capital formation, GDP growth, diamond prices, platinum prices, total platinum production and total diamond production.

To identify an adequate empirical estimation technique, a few things need to be considered. While we are not dealing with national accounts data, the data being collected are still at country level, and as such, prone to the same noise that often hampers macro-economic data analysis. This brings up issues of endogeneity. In this case, endogeneity can arise. For example, in the case of South Africa where IFFs are often ranked as among the highest on the continent, that high financial flows can be jointly determined with high levels of trade as well as economic performance. Therefore, care is taken to ensure the estimation technique selected guards against the effect of this. The main differentiating factor is that the output of the two commodities are not explicitly endogenously determined by the economy. Nevertheless, caution dictates that traditional estimation techniques such as OLS may obtain inconsistent results. This can be because of the reverse causality that is most certain to arise in such an analysis. For example, good increased production in the diamond sector can lead to decreased IFFs due to increased capitalisation of the mining companies, while at the same time, decreased IFFs can result in improvement in output within the same market.

The above concerns inform the estimation technique adopted. However, it should also be informed by the panel data characteristics of the data used. The first step involves testing the data set for unit roots. Unit root tests of panel data are often not as accurate in comparison to unit root tests of time

series data. As such there are many unit root tests in the empirical literature. For this analysis, we employ the Augmented Dickey-Fuller approach, on which most other unit root tests are based, there we stick to this test only for the unit root analysis. The Augmented Dickey-Fuller Fisher (ADF Fisher) unit root test was developed by Maddala and Wu (1999).² It has a Chi-Square distribution and a null hypothesis of non-stationarity, which is the presence of a unit root. The result of the unit root test is presented in Table 1 in the Annexure. The results show that most of the variables are non-stationary, except for a few. There are two options that need consideration. First, differencing of the stationary variables, to remove the unit root, would result in loss of long-run information contained in the data. This may be of importance, depending on the dynamics this analysis is interested in. However, given the relatively short period covered by the data, exploring long-run dynamics of IFFs would be difficult. Therefore, in such an instance, it makes sense to first difference the variable integrated of Order 1.

With these concerns in mind, it is important to determine the best estimation technique for our purpose. A possible option would be to use an instrumental variables technique to account for all the endogenous variables. This would entail a two-stage least square approach. This method is based on the traditional OLS estimation approach; however, it helps to account for the possible presence of reverse causality by incorporating instruments which are orthogonal in nature. Given the potential for reverse causality, leading to endogeneity in our analysis, it is best to opt for an estimation technique that helps circumvent this. In implementing a 2SLS analysis, the first equation captures the relationship between some welfare measure and IFFs in the form:

$$W_t = a_0 + a_1 IFF_t + \beta Z_t \quad (1)$$

and

$$IFF_t = \gamma_0 + \gamma_1 X_t + \delta Z_t \quad (2)$$

Where W_t is the measure of welfare being tested, which in our case could be one of two measures: employment in the mining sector and political stability. The political stability measure is captured in the World Bank Governance database. A larger negative index indicated weak levels of political stability, while larger positive numbers indicate strong levels of political stability. The anticipated direction of influence from IFF to political stability is a negative relationship. As such, the IFF coefficient should be negative. However, given the nature of IFF on the continent, the flow can be ambiguous, as IFF tends to pick up during growth spurts in the economy, while growth is expected to usher in better institutions, which should in turn reduce the ease of flow of illicit funds through the economy.

Empirical results

The first aspect of the analysis considers the diamond industry, examining the impact of the calculated IFF from the diamond commodity trade on political stability and employment in the mining sector. From the estimation explanations in the second section, there are four different potential measures of IFF obtained. The first two (commodity quantity and commodity net weight) are not in monetary terms, but rather in terms of commodity quantity. The second two are the reported trade values differentials in US\$, and the computed value of the differential in reported trade net weight. Tables 2 and 3 present the results of regressing IFF in all four different forms on employment in the mining sector of all four countries. In Table 1, both fixed effects and random effects results are reported, as well as no effects at all. The reason for this is that while there may be individual country characteristics that are interesting, the small data may be hindering this from being a tangible realisation. However, random effects are more suited to this situation. As the results show, in columns 3, 8, 9, and 12, the impact of IFF is significant, albeit it does not take up the negative form anticipated.

The observed positive correlation of IFF in all four different measures with better mining sector employment outcomes is not as much a puzzle, as it is a limitation of the current data to tease out effectively the role of IFF. There is an increased possibility of more IFF in the presence of increase economic performance or mining sector improvement, and this may be the effect that our analysis is picking up. To support the argument that a positive coefficient may be as a result of the data limitations and possible missing variable bias, the graph in Figure 7 shows a clear counter-flow in the movement of employment and IFF. If Table 3 (in the Annexure) is considered, again a positive correlation is observed between IFF measures (using random effects) and political stability. This correlation is important, because often the most significant strikes and protests in countries like South Africa, Namibia and Zimbabwe are by workers in the mining sector. Therefore, it is possible to draw some observable correlation between the two phenomena.

A positive coefficient in this situation is not as bothersome as the correlation between employment and IFF being positive. This is because, there are many other concurrencies in the macro-economy that could have a much stronger influence on political stability than activities in the mining sector.

Moving on to the platinum commodity and trade market, Tables 4 and 5 (in the Annexure), show the results obtained. The regression in this case needs to be taken with caution, given the paucity of data for quantitative analysis. The reason being that only Zimbabwe and South Africa are active exporters of platinum, while Botswana and Namibia are yet to establish a fully-fledged platinum mining sector. Therefore, both countries were dropped in the panel analysis, leaving us with just Zimbabwe and South Africa. The results in Table 4 (in the Annexure) report the possible correlations between IFF from platinum mining activities in South Africa and Zimbabwe, and employment in these two sectors. No significant correlation was found. Ideally, a better proxy would be data that narrows the data down to employment in the platinum mining sector of each country's economy. However, such data was not available for Zimbabwe. In South Africa where the data is available, Figure 8 plots the employment in platinum mining and IFF from platinum mining. It shows that, while there has been a continuous increase in the employment numbers in platinum mining, the times where a sharp jump in IFFs from platinum mining is observed is also followed by a slight slowdown in the growth of employment (see 2004, 2012, 2014).

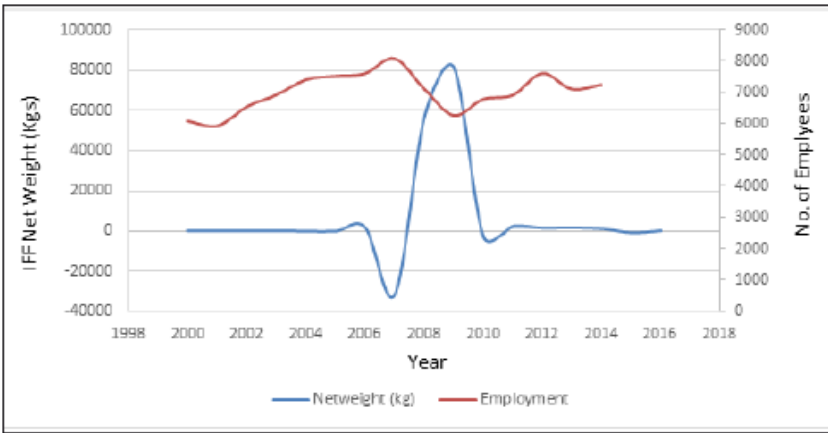


Figure 7: Diamond IFF (in net weight) and employment in Namibia

Sources: Compiled by the research team, UN COMTRADE, Namibia Chamber of Mines

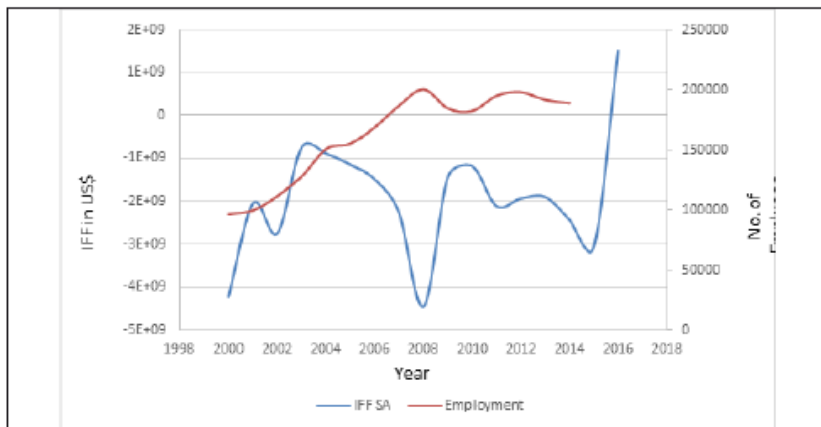


Figure 8: Plot of IFF value in US\$ from the platinum mining in South Africa, and number of employees

Source: Various sources compiled by the research team, UN COMTRADE

The results in Table 5 (in the Annexure) follow the same narrative as observed with IFF in the diamond mining area, although one of the regressions (in column 1) shows a significant and negative correlation between the quantity of IFF (in platinum kilograms) and political stability. A negative coefficient implies a weakening of political stability.

Implications

It is generally agreed that IFFs are a major problem in Africa, and the extractive sector is the most affected. One major implication of the study undertaken, which this article distils, is that something needs to be done in the mining areas and for communities in the (former) mining areas. There needs to be socio-economic development projects for such communities. Another important issue is that policies and legislation need strengthening to ensure that communities in the (former) mining areas benefit from mining operations or at least that such communities are not adversely affected. In addition, although the Namibian and South African governments have some relevant capacities, both governments do not have specialised policy and institutional approaches to quantifying and properly assessing the extent of IFFs in the mining sector. In strengthening the institutional architecture to combat IFFs in the mining sector, Southern African governments with mining operations need to jointly audit their abilities to address IFFs from

multinational companies with a high level of legal and accounting capacity. It will be hard, if not impossible, for individual SADC or African states to separately address IFFs. This is because the issue is a multifaceted complex problem involving multinational companies which might have better human capital capabilities than individual government institutions/departments. Most importantly, even if capacities, policies and laws were strengthened, it would still matter whether the officials in relevant institutions and those enforcing laws are ethical or not. It is in this context that Gumede (2017) has been arguing for thought liberation and critical consciousness (over and above thought leadership).

Critical consciousness implies that the citizenry, community members in this context, can hold mining companies or whoever takes them for a ride accountable. To be able to do this, community members have to be critically conscious in a sense that they fully appreciate the implications of IFFs. With regards to thought liberation, similarly, community members should be primarily concerned with the advancement of wellbeing rather than with other spoils that come with access to material wealth. The leadership at the community level should be above board because there are always attempts to corrupt them. The major concern of development initiatives in the communities should be about future generations. The traditional leadership, for instance, could not collude with mining companies and corrupt government officials for their own gain if they were mentally liberated. The focus would have been on schools, healthcare and other important amenities.

Conclusion

The article has discussed IFFs in the mining sector in Southern Africa and attempted to quantify them. As the literature says, the problem of IFFs is big. The extractive sector is the most affected. Focusing on diamonds and platinum in selected countries in Southern Africa, indeed IFFs have adverse effects not just on the countries but also on the socio-economic development of the communities in the (former) mining areas. Also, even though there are some capacities, institutions, policies and laws regarding the mining sector in the countries examined, there is no specific attention paid to IFFs in the mining sector. For some countries, there is general concern about IFFs broadly but no specific focus on the mining sector. Essentially, more needs to be done to strengthen capacities, institutions, policies and laws regarding IFFs in the mining sector, and also to ensure that communities in the (former) mining areas are not adversely affected.

With regard to estimations, the results are mixed. There are still challenges regarding methods and methodologies. The UN COMTRADE data, in

conjunction with many other trade monitoring organisations, and the push for a harmonised trade monitoring nomenclature will make tracking of trade, trade values and the invoicing of trade activities less tedious. This should hamper the use of trade mis-invoicing as a major route for moving illicit funds out of African countries. Despite these initiatives, using some of the available data for quantitative individual country analysis, especially for African countries, is still difficult. This is mainly due to very limited available relevant data.

Going forward, attempts should be made to accurately quantify transportation costs, insurance freight and FOB rates for African countries. This would make tracking trade mis-invoicing a better possibility, and estimations and analysis at industry level, and even commodity level, robust.

Notes

1. Values are based on the reported dollar price per ton for platinum from the World Bank Global Economic Monitor (GEM) commodities database. Each kg is equivalent to 32.1507 tons. Thus, each net weight reported is multiplied by the 32.1507, and further multiplied by the price reported by the World Bank GEM commodities database.
2. Undertaken through the Eviews 5 econometric package.

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Annexure**Table 1:** Augmented Dickey Fuller unit root test

Variable	ADF		ADF 1st diff		Integration level
	Stat	P-value	Stat	P-value	
Diamond units	24.9286	0.0016	n/a	n/a	0
Diamond net weight	21.8323	0.0052	n/a	n/a	0
IFF value	37.199	0	n/a	n/a	0
Computed diamond IFF	22.399	0.0042	n/a	n/a	0
Total diamond production	4.2189	0.8369	26.536	0.0008	1
Diamond price	10.4913	0.2322	19.4958	0.0124	1
Total employment	6.61928	0.5782	24.0999	0.0022	1
Political stability	25.11	0.0015	n/a	n/a	0
Mineral rents	9.42783	0.3075	39.8309	0	1
Total natural resources	12.0595	0.1486	43.9025	0	1
Trade	12.1741	0.1436	33.6975	0	1
Capital	7.0916	0.5268	24.4689	0.0019	1
GDP growth	25.4997	0.0013	n/a	n/a	0
Platinum unit	26.7791	0.0008	n/a	n/a	0
Platinum net weight	39.7801	0	n/a	n/a	0
Platinum IFF value	16.2668	0.0387	n/a	n/a	0
Computed platinum IFF	47.3801	0	n/a	n/a	0
Platinum produced	1.77029	0.7779	13.3493	0.0097	1
Platinum price	6.94946	0.5421	36.9651	0	1

Table 2: Impact of diamond commodity market IFF on employment in the mining sector

Variable	1	2	3	4	5	6	7	8	9	10	11	12
Diamond quantity	0.0005	0.0004	0.0004**									
	0.284	0.251	0.016									
Diamond net weight				0.0000	0.0000	0.0000***						
				0.844	0.895	0.000						
Diamond IFF value							0.0000	0.0000	0.0000**			
							0.407	0.296	0.022			
Diamond IFF value (computed)										0.0000	0.0000	0.0000*
										0.792	0.629	0.086
Diamond output	0.0583	-0.0028	0.0086	0.2843	0.0665	1.2533***	0.0530	0.1131	0.0371	0.2520	0.0981	0.3149**
	0.877	0.992	0.953	0.608	0.826	0.000	0.894	0.704	0.838	0.633	0.738	0.046
Diamond prices	-0.0037	-0.0006	-0.0014	0.0009	0.0011	-0.0006	-0.0087	-0.0035	-0.0070	0.0001	-0.0002	-0.0027
	0.655	0.935	0.710	0.954	0.864	0.659	0.497	0.734	0.197	0.995	0.980	0.444
Cross-section effects	None	Fixed	Random	None	Fixed	Random	None	Fixed	Random	None	Fixed	Random
Obs	37	37	37	37	37	37	37	37	37	37	37	37

*, **, and *** represent 10%, 5% and 1% levels of significance respectively. P-values are reported in italics below the coefficient. Most values are in original form, without applying natural log, because a significant percentage of these were negative observations. Therefore, some of the coefficients are relatively small.

Table 3: Impact of diamond commodity market IFF on the level of political instability

Variable	1	2	3	4	5	6	7	8	9	10	11	12
Diamond quantity	0.001	0.0000	0.0002									
	0.722	0.846	0.353									
Diamond net weight				0.0000	0.0000	0.0000						
				0.939	0.119	0.008						
Diamond IFF value							0.0000	0.0000	0.0000			
							0.555	0.710	0.002			
Diamond IFF value (computed)										0.0000	0.0000	0.0000
										0.374	0.758	0.000
Diamond output	-1.340	-0.126	-0.714	-1.329	-0.139	-1.410	-0.963	-0.125	-1.049	-1.470	-0.127	-1.430
	0.070	0.005	0.000	0.066	0.002	0.000	0.068	0.005	0.000	0.081	0.005	0.000
Diamond prices	0.021	0.789	0.003	0.017	0.002	-0.003	0.035	-0.001	0.026	-0.019	-0.004	-0.064
	0.720	0.789	0.630	0.793	0.818	0.612	0.422	0.867	0.000	0.810	0.632	0.000
Cross-section effects	None	Fixed	Random	None	Fixed	Random	None	Fixed	Random	None	Fixed	Random
Obs	33	33	33	33	33	33	33	33	33	33	33	33

*, **, and *** represent 10%, 5% and 1% levels of significance respectively. P-values are reported in italics below the coefficient. Most values are in original form, without applying natural log, because a significant percentage of these were negative observations. Therefore, some of the coefficients are relatively small.

Table 4: Impact of IFFs from platinum commodity market on employment in the mining sector

Variable	Model 1	Model 2	Model 3	Model 4
Platinum quantity	0.0008	-0.0002		
	0.8949	0.8917		
Platinum weight				
Platinum IFF value			0.0000	0.0000
			0.9108	0.7591
Platinum IFF value (computed)				
Platinum output	0.4452	0.2873	0.1288	0.0405
	0.7139	0.4636	0.6836	0.9393
Platinum prices	0.0007	0.0005	0.0004	0.0002
	0.5467	0.1129	0.1111	0.5991
Cross-section effects	None	Fixed	None	Fixed
Obs	17	17	17	17

*, **, and *** represent 10%, 5% and 1% levels of significance respectively. P-values are reported in italics below the coefficient. Most values are in original form, without applying natural log, because a significant percentage of these were negative observations. Therefore, some of the coefficients are relatively small.

Table 5: Impact of IFFs from platinum commodity market on political stability

Variable	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7	Model 8
Platinum quantity	-0.0187***	0.0002						
Platinum weight	0.0000	0.9756	0.0000	0.0000*				
Platinum IFF value			0.3064	0.0769	0.0000***	0.0000		
Platinum IFF value (computed)					0.0006	0.1308	0.0000	0.0000*
Platinum output	-0.3933	-0.4578	-1.8443*	-0.2196	-0.0531	-0.0992	0.5616	0.0853
Platinum prices	0.4435	0.2294	0.0741	0.4334	0.9363	0.7554	-3.4628*	0.4239
	-0.0004	-0.0006	-0.0023	-0.0003	0.0010	0.0002	-0.0028	-0.0003
	0.5890	0.2793	0.1390	0.4030	0.3210	0.6453	0.2774	0.4159
Cross-section effects	None	Fixed	None	Fixed	None	Fixed	None	Fixed
Obs	20	20	20	20	20	20	20	20

*, **, and *** represent 10%, 5% and 1% levels of significance respectively. P-values are reported in italics below the coefficient. Most values are in original form, without applying natural log, because a significant percentage of these were negative observations. Therefore, some of the coefficients are relatively small.



Cows, Cash and Terror: How Cattle Rustling Proceeds Fuel Boko Haram Insurgency in Nigeria

Al Chukwuma Okoli*

Abstract

This study explores the nexus between cattle rustling and the Boko Haram insurgency by way of ascertaining how proceeds from the former is used to fund the latter. By means of secondary research, predicated on the theory of terrorism financing the article argues that material and financial proceeds from cattle rustling have been deployed to fund and sustain Boko Haram operations. The study underscores the strategic implications of cattle rustling as a veritable source of terrorism financing, and contends that dismantling cattle rustling infrastructure (the sources, syndicates, networks, markets, routes, transits, etc.) is key to counter-insurgency efforts in Nigeria.

Résumé

Cette étude explore le lien qui existe entre le vol de bétail et l'insurrection de Boko Haram afin de déterminer comment les produits de la première activité sont utilisés pour financer la seconde. Au moyen de recherches secondaires, fondées sur la théorie du financement du terrorisme, l'étude postule que les revenus matériels et financiers du vol de bétail ont été utilisés pour financer les opérations de Boko Haram. L'étude souligne les implications stratégiques du vol de bétail en tant que véritable source de financement du terrorisme et soutient que le démantèlement des infrastructures de vol de bétail (sources, réseaux, itinéraires, lieux de transits, etc.) est essentiel pour contrer l'insurrection au Nigeria.

Introduction

Cattle rustling has been a critical dimension of the prevailing security crises in Africa. Over the years, the problem has intrigued analysts, who have

* Department of Political Science, Federal University, Lafia, Nigeria.
Email: okochu007@yahoo.com

sought to interrogate its phenomenology from a variety of perspectives. A dominant narrative in the existing literature has associated the phenomenon with the contemporary complications of rural banditry (Okoli 2014; Egwu 2016). Another important perspective has linked the occurrence to the contradictions of nomadic pastoralism in the context of climate change, rapid urbanisation and population explosion (Adogi 2013; Okoli and Atelhe 2014; Okoli 2016; Olaniyan and Yahaya 2016). Despite the gamut of extant literature, very little has been said concerning the nexus between cattle rustling and the incidence of insurgency in Africa.

Scholarship on insurgency in African has been rich, ebullient, bourgeoning and perennial. With reference to Nigeria's experience with Boko Haram insurgency, scholarly inquiry has turned a full cycle, as there is virtually no aspect of the crisis that has not been overtly interrogated. Nonetheless, in spite of the avalanche of literature on the subject matter, some salient aspects are yet to be properly and sufficiently engaged. For instance, while much has been written on the nature, causes, complications and impacts of the Boko Haram insurgency (Onuoha 2011; Ibrahim 2012; Okoli and Iortyer 2014), there exists scant information on its funding and material sustenance.

Although aspects of funding Boko Haram activities have been recognised in the emerging literature on terrorism financing (Omeje 2007; Onuoha 2012; FATF-GIABA-GABAC 2016), the bulk of what is known in that regard is largely a matter of anecdotal speculation and analytical permutations. There is, therefore, a need to undertake a rigorous study on the subject matter in order to buttress and/or validate relevant hypothetical claims. It is this need that has informed this study.

This article, therefore, seeks to establish a nexus between cattle rustling proceeds and Boko Haram insurgency within the analytical framework of terrorism financing. This is against the backdrop of the rising incidence of cattle rustling in northern Nigeria since the escalation of the Boko Haram insurgency from the 2000s (Egwu 2015). The study posits that financial and material proceeds from cattle rustling have been used to fund and sustain the operations of Boko Haram insurgents.

The remainder of the article is schematically organised under the following broad themes: conceptual analysis; analytical framework/terrorism financing; overview of the Boko Haram insurgency in Nigeria; incidence and dynamics of cattle rustling in northern Nigeria; insurgency and political economy of cattle rustling; cattle rustling proceeds and the Boko Haram insurgency; strategic implications and the way forward; and conclusion.

Conceptual analysis

Two key terms form the conceptual thrust of this study, namely “insurgency” and “cattle rustling”. This section clarifies and contextualises these concepts, with a view to situating their operational meaning in the context of the present discourse.

Insurgency

This is a form of collective violence whereby a clandestine sub-state organisation seeks to gain control of a state or an aspect of its territory ‘from within through a combination of subversion, guerrilla warfare, and terrorism’ (cf. Mokaitis 2011: 6). The United States Department of Defense (DoD) defines insurgency as ‘an organized movement aimed at the overthrow of a constituted government through use of subversion and armed conflict’ (DoD-US 2017). More elaborately, Liolio (2013: 35) avers that insurgency connotes:

an internal uprising often outside the confines of state’s laws and ... often characterised by social–economic (sic) and political goals as well as military or guerrilla tactics... a protracted struggle carefully and methodically carried out to achieve the goals with the eventual aim of replacing the existing power structure.

Insurgency is so related to terrorism to the extent that a typical instance of insurgency may necessarily entail the use of one form of terrorist tactic or another. Yet, the two phenomena are not essentially the same, both in terms of means and ends. In effect, while insurgent groups often use violence more selectively and discreetly, terrorists are more often inclined to using violence rather recklessly and wantonly. Again, while insurgency is generally dedicated to bringing about political change in favour of the insurgent group, terrorism tends to be more oriented towards systematic chaos and anarchy. But both insurgency and terrorism employ asymmetric approach to violence, unlike what obtains in conventional warfare (Okoli and Iortyer 2014). Concerning the relationship between insurgency and terrorism vis-à-vis civil war, Liolio (2013: 34) poignantly observes that:

While for instance terrorism rarely brings about systematic political change on its own, insurgency attempts to bring about change through force of arms. Similarly, terrorists often apply a wide range of damages when compared to insurgents. On the other hand, while conventional war involves adversaries that are more or less symmetric in equipment and training, insurgency involves adversaries that are asymmetric, weak, and almost always a sub-state group.

In the context of this study, insurgency is used to denote a politically organised and conscious sub-state organisation that seeks to control a state or any aspect of its territory through systematic violence and subversion. Insurgency differs from terrorism both in essence and in purpose. While the former is characterised by immense lethality and wanton destruction, the latter is more systematic and discreet in the application of terror.

Insurgency has manifested in various forms and dimensions in most parts of the world. In some instances, it has been associated with ideological or religious extremism. Elsewhere, it has been characterised by manifest criminal opportunism and impunity. Table 1 gives insights into common patterns of insurgency widely recognised in the contemporary security discourse.

Table 1: Typology of insurgency

Type	Remarks
Revolutionary insurgency	Seeks a revolutionary change; repudiation of the status quo.
Reformist insurgency	Seeks modification or alternation of specific policies.
Separatist insurgency	Seeks self-determination or cessation.
Resistance insurgency	Seeks political liberation; resists foreign power/territorial domination.
Commercialist insurgency	Seeks economic advantage (access to resources) through attempt to seize power.
Opportunistic insurgency	Capitalises on state failure or ungoverned space to carve a sphere of influence.
Degenerate insurgency	Switches from organised insurgency to extremist (terrorist) or criminal organisation.

Source: Adapted from Mockaitis (2011); Liolio (2013)

Cattle rustling

Cattle rustling is a dominant form of rural banditry in contemporary Africa (Okoli 2016). In the context of this study, it refers to the theft of cattle through armed violence, or threat to that effect (cf. Okoli and Okpaleke 2014). From a legal point of view, a protocol of Eastern African Police Chiefs Cooperation (EAPCCO) defines cattle rustling as ‘the stealing or planning, organising, attempting, aiding or abetting the stealing of livestock by any person from one country or community to another, where the theft is accompanied by dangerous weapons and violence’ (EAPCCO 2008: 3).

Originally, cattle rustling (also sometimes designated as cattle raiding) was observed as a symbolic cultural practice in parts of the Horn and East Africa. In this context, 'it was sanctioned by elders and played as a game aimed at replenishing lost herds and for cultural practices including dowry payment, and as a proof of one's manhood and brevity' (RCSA n.d.: v). From its traditional mode as a means of 'localized herd redistribution' (Olaniyan and Yahaya 2016), as well as a system of cultural expression, cattle rustling has, over the years, degenerated into a pattern of organised criminality and militancy (Copenhagen Centre for Development Research 2014; *New African* 2016). In effect, 'the current system of cattle rustling was perceived as a criminal activity, because it is often perpetrated by non-pastoralists for commercial purposes rather than cultural motives' (Copenhagen Centre for Development Research 2014: 2).

The transformation of cattle rustling from its ancient and simple form to its contemporary manifestation as organised crime is significant. It entails the instrumentalisation and militarisation of a naive cultural practice by opportunistic criminals in the age of arms proliferation and criminal impunity, albeit in a context of failure of state governance (Okoli and Okpaleke 2014). Hence, contemporary cattle rustlers are characteristically violent and destructive. They are armed with sophisticated weapons and often operate with immense criminal efficiency and brutality (Kwaja 2014).

The modern transformation of cattle rustling is also evidenced by its growing translocational and transnational tendencies (Olaniyan and Yahaya 2016). Unlike the primitive mode of cattle rustling that was essentially localised and isolated, present-age cattle rustling bears all the trappings of translocalism and syndication. Consequently, the act is often perpetrated by networks of actors and facilitators that may be isolated from each other in real time and space. Yet, the act is also systematically plotted, coordinated and prosecuted, often with optimal efficiency.

The incidence and prevalence of cattle rustling in Nigeria today is associated with a number of factors, the crux of which is the inability or weakness of the state to govern effectively, especially in terms of hinterlands and forestlands policing (Okoli and Ochim 2016; Olaniyan 2017). This has been complicated by arms proliferation and insurgency to accord cattle rustling the character of intractability (Egwu 2016; Olaniyan 2017).

As much as being an organised crime (Alemika 2013), cattle rustling has become a booming criminal franchise in East and West Africa (Copenhagen Centre for Development Research 2014; Tar and Shettima 2014). In these contexts, it has served the purpose of 'queer capitalist acquisition' and 'criminal profiteering' (Okoli and Okpaleke 2014b). The repercussions

of cattle rustling have been implicated as veritable precipitators of rural violence and insecurity in Africa (Tar and Shettima 2008).

It is germane to note that cattle rustling is different from other forms of cattle theft, such as waylaying and killing a stray cow for meat, or pilfering cows from the ranch. These instances of cattle theft, often petty and furtive, do not require much planning and organisation, let alone syndication. Again, they do not entail the use of violence or threat of violence, and are basically driven by concerns of subsistence rather than those of primitive or capitalist economic accumulation.

Cattle rustling is a global phenomenon. It is still a common form of rural crime in Asia, the United States, Australia and the Philippines (see for instance Crime Prevention on Farms n.d.; Malnekoff 2013). In Africa, cattle rustling has been most prevalent in East Africa, with Kenya having the lion's share in terms of its incidence (Khisia 2017; Cheserek, Omondi and Odenyo 2012). The West African sub-region has also had a significant manifestation of cattle rustling over the years (Tar and Shettima 2008). Since the escalation of the Boko Haram insurgency in Nigeria from the late 2000s, cattle rustling has become rampant in many parts of northern Nigeria, with dire transnational complications in the Lake Chad axis. In this context, it has served the dual purpose of terrorism financing and opportunistic criminality.

Overview of the Boko Haram insurgency in Nigeria

Boko Haram is a fundamentalist Islamic sect formerly known as *Jama'a Ahl as-Sunna Lida'wa-al Jihad*. It arose in the early 2000s as a small *Sunni* Islamic sect championing strict implementation and interpretation of Islamic law in Nigeria (Congressional Research Service 2016). The group was originally led by Mohammed Yusuf, a non-conformist Islamic cleric, who was murdered in custody of the Nigerian security forces in 2009 (Okoli 2017). The phenomenology and activities of the sect have been well documented in the literature (see for instance Onuoha 2011; 2012; Okoli and Iortyer 2014). Suffice it to note that the impact of the Boko Haram insurgency in relation to Nigeria's human security has been horrendous. As a record alarms:

More than 15,000 people are estimated to have been killed by Boko Haram, including more than 6,000 in 2015 alone. By UN estimates, roughly 2.8 million people have been displaced by Boko Haram related violence in the Lake Chad Basin region, where approximately 5.6 million are in need of emergency food aid (Congressional Research Service 2016: i).

Box 1: Timeline of Boko Haram Violence

Selective chronology: 2003–17

2003 – Boko Haram was established in northern Nigeria under the leadership of Islamic cleric Mohammed Yusuf. Yusuf preached that the country's ruling was marred by corruption and advocated for the creation of an Islamic state.

July 2009 – Boko Haram members clashed with security forces in several northern states, resulting in at least 800 deaths. Mohammed Yusuf was arrested and killed in police custody.

2010 – Boko Haram regrouped and started its campaign of violent attacks against security forces, schools, churches and civilians.

September 2010 – Boko Haram attacked a prison in Bauchi State, freeing 150 of its members and several hundred other prisoners.

12 June 2011 – The Nigerian Government established a Joint Task Force (JTF) in Borno State, to 'restore law and order' to North-East Nigeria. It is comprised of personnel from the Nigerian Armed Forces, the Nigeria Police Force (NPF), the Department of State Security (DSS), the Nigerian Immigration Service (NIS) and the Defence Intelligence Agencies (DIA).

16 June 2011 – Boko Haram bombed Nigeria's National Police Force Headquarters in Abuja.

26 August 2011 – Boko Haram bombed the UN offices in Abuja, killing 23.

26 April 2012 – Boko Haram bombed the offices of the Nigerian newspaper *This Day* in Abuja and a building housing three newspapers, including *This Day*, in Kaduna. At least seven people died.

November 2012 – The Prosecutor of the International Criminal Court noted that serious human rights violations may have been committed by the JTF and that Boko Haram's attacks may constitute crimes against humanity.

May 2013 – President Jonathan declared a state of emergency in Adamawa, Borno and Yobe States, which was rapidly approved by the National Assembly.

May 2013 – A vigilante group, known as 'Civilian Joint Task Force' was formed with government support in Maiduguri. They were given powers to arrest suspected Boko Haram members and hand them over to security forces.

November 2013 – The National Assembly approved a six-month extension to the state of emergency in Adamawa, Borno and Yobe States.

2014 – Attacks by Boko Haram against civilians intensified, becoming an almost daily occurrence. The JTF responded by increasing its campaign to flush Boko Haram out of its camps in the east of Borno State.

- 16 January 2014 – President Jonathan replaces the Chief of Defence Staff and some other senior military figures.
- 14 March 2014 – Boko Haram attacked the Giwa Military Barracks in Maiduguri, allegedly freeing over a thousand inmates. The military recaptured the barracks, then rounded up and shot hundreds of escaped detainees.
- April 2014 – Boko Haram abducted nearly 300 girls from a school dormitory in Chibok.
- July 2014 – Boko Haram shifted from asymmetric attacks to a conventional offensive, dedicated to seizing and holding territory.
- August 2014 – Boko Haram declared an Islamic State in the North-East.
- 7 March 2015 – Boko Haram pledged allegiance to ISIS.
- April 2015 – Boko Haram began to lose most of its territories, sliding into the Sambisa forest.
- December 2016 – Nigerian military began intensive combat operations in Sambisa forest in an attempt to recapture the territory and dislodge the insurgents.
- May 2017 – Some girl-captors (Chibok girls) were released by the insurgents in exchange for some of their commanders.

Source: Okoli 2017: 42–3

Terrorism financing: theoretical framework

Terrorism financing refers to the system of funding terrorist activities. It ‘encompasses complex financing structures used by terrorist organizations to conduct large scale attacks or simplistic models used to support small cells and fund smaller attacks’, (FATF-GIABA-GABAC 2016: 1). This includes networks, actors, assets, and money as illustrated in Figure 1.

There are many and varied sources of terrorism financing, ranging from local to international sources as well as ‘legal’ to ‘illegal’ sources (Onuoha 2011; 2017). Local sources refer to domestic avenues by which terrorist organisations raise funds for self-maintenance and sustainable operations. These range from legitimate activities such as farming and trading to illicit activities such as bank raids, smuggling, kidnapping and the like (see Table 2). International sources of terrorism financing have to do with external sponsorship of terrorist activities via state and non-state donations. Some of these donations are often disguised as religious, corporate or humanitarian charities while some are direct proceeds of money laundering and other transnational crime (cf. Freeman 2011).

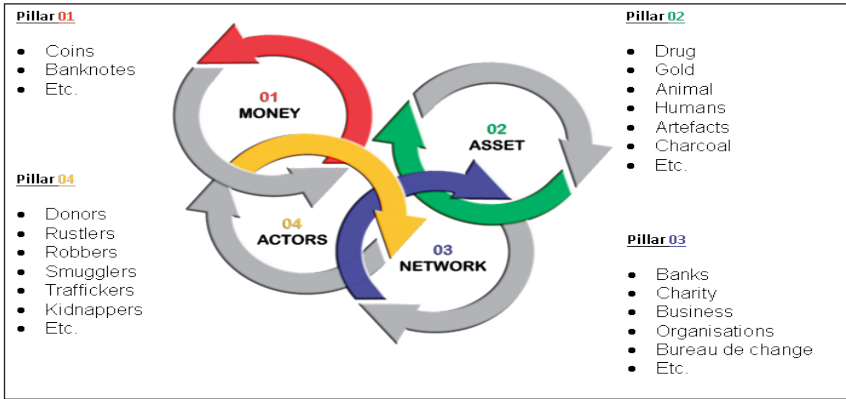


Figure 1: Aspects (pillars) of terrorism financing infrastructure
 Source: Onuoha (2017:5)

Table 2: Sources of terrorism financing

Main Sources	Other Sources
Extortions in the form of taxes and protection/security fees	Arms trafficking
Personal and group donations	Human trafficking
Legitimate activities (such as agriculture and trading)	Drug trafficking
Kidnapping for ransom	Substance cultivation and sale
House looting	Piracy
Cattle rustling	Oil bunkering/theft
Armed robbery	Illicit mining
Market raids	Illicit refining of crude oil
Farm raids	Diaspora funding
Infrastructure vandalism	State sponsorship
Material dispossessions from government soldiers	Illicit exploitation of wildlife
Membership dues	Smuggling

Source: Adapted from FATF-GIABA-GABAC (2016)

The theory of terrorism financing is still inchoate and evolving. The groundwork of the theory was laid out by Freeman (2011) in a work

where he set out to theorise terrorism financing from the standpoint of the following analytical positions:

1. What are the possible sources of terrorism financing?
2. What do terrorist organisations look for when they consider various sources of financing?
3. What makes one source more attractive than the other? (*ibid.* 461–3).

The theory of terrorism financing is predicated on the assumption that terrorism is an expensive venture and that money (finance) is indispensable to it. According to Freeman (2011: 461), ‘Terrorism costs money’. He adds that ‘without money, (terrorist) groups could not conduct their operations or exist as organizations’ (*ibid.*). The theory also postulates that since money is the ‘life-blood’ of every terrorist organisation (Freeman 2011), stifling sources and prospects of terrorism financing then becomes a desideratum in any meaningful counter-terrorism endeavours (Bloemkolkoo 2014).

In an attempt to evaluate the different sources of terrorist funding, particularly in terms of their comparative advantages and disadvantages to the terrorist group, Freeman (2011: 461) advances six explanatory criteria, as reproduced in Table 3.

Table 3: Freeman’s six conditional indices/criteria for terrorism financing

Criterion	Explanation
Quantity	Sources of terrorism financing that provide larger quantities of money are preferred to those that do not.
Legitimacy	Sources of financing seen by terrorists as legitimate and ideologically permissive are highly preferable.
Security	Sources that guarantee higher prospects of self-security and operational secrecy of the terrorist organisation are more desirable.
Reliability	Sources that are fairly predictable and consistent are better for terrorist groups than those that fluctuate rather inconsistently.
Control	Sources that guarantee high prospects of internal control of the sourcing and management of finances are much preferred.
Simplicity	Simpler, more cost-effective methods of fund-raising are more desirable.

Source: Freeman (2011: 463–4)

The aforementioned sources/methods of terrorists financing are essentially competitive. In the light of the six criteria identified in Table 3, these sources

present a premise for strategic bargain and trade-offs. According to Freeman (2011: 464):

One source, for example state sponsorship, might be advantageous for bringing in large sums of funding, but may be disadvantageous because the terrorist group may be beholden to the state sponsor's agenda to lose some control over how their organization functions.

In such a strategic dilemma, the concern of the terrorist organisation involved would be to prioritise among the different criteria with a view to settling for one or a combination of funding options that most pragmatically suits its purpose. In other words, the adoption of any funding strategy must be predicated on its comparative strategic efficacy cum utility against the backdrop of other relevant criteria (see Table 3).

How does the theory of terrorism financing apply to the present study on Boko Haram insurgency? First and foremost, Boko Haram has been designated as an international terrorist organisation (Okoli and Iortyer 2014). As a metamorphosed terrorist group, Boko Haram has tended to derive the bulk of its funds locally (FATF-GIABA-GABAC 2016). Most of the funds have been generated from looting, localised extortion and disguised donation (local sponsorship), membership contributions, and banditry which stands out as a very important method of Boko Haram's funding (Kuna and Ibrahim 2016). This has obtained in the form of market raids, high-way robbery, bank robbery and cattle rustling (Okoli and Okpaleke 2014a; 2014b). Cattle rustling has been a principal source of Boko Haram's funding (FATF-GABA-GABAC 2016). A number of socio-ecological factors make cattle rustling a variable method of fundraising by the insurgents:

1. availability of enormous nomadic livestock in northern Nigeria;
2. existence of a wide expanse of forested areas, often separated from proper territorial control of the state;
3. porosity of international borderlines along the Cameroon–Niger–Chad axis;
4. poor hinterlands and forestlands policing in most parts of rural northern Nigeria (Okoli and Okpaleke 2014a; Okoli and Ochim 2016).

Appropriating Freeman's six criteria of terrorism financing, it is hereby posited that the afore-mentioned socio-ecological factors have conferred on cattle rustling the virtues of quantity, legitimacy, security, reliability, control and simplicity. Hence, cattle rustling has become a veritable mode of terrorism financing by Boko Haram insurgents. This explains the rising incidence of the phenomenon since the advent of the Boko Haram insurgency in Nigeria in the early 2000s (Egwu 2016).

Apart from accounting for its basic funding, cattle rustling has also been a critical source of milk, meat, as well as trade in animal skin and dry meat for Boko Haram insurgents. It has largely sustained the activities of the organisations by ensuring that it lives up to its logistical and essential supplies needs (see Table 4). As demonstrated subsequently, this has largely accounted for the survival of the group.

Table 4: Uses of terrorist finances

Logistics	Essential Supplies	
<ul style="list-style-type: none"> • Transportation • Communication/propaganda • Espionage • Training • Upkeep of commanders and fighters • Construction/maintenance of camps • Mobilisation of suicide missionaries 	<ul style="list-style-type: none"> • Soft supplies • Food stuffs • Medicine (drugs) • Clothing • Water • Meat • Beverages • Household items 	<ul style="list-style-type: none"> • Hard supplies • Operational vehicles • Weaponry (arms and ammunition) • Improvised Explosive Device(IED) materials • Combat kits/wears • ICT equipment • Energy (fuel, generating sets, solar technology) • Construction materials

Incidence and dynamics of cattle rustling in Nigeria

Cattle rustling is one of the most perilous manifestation of rural banditry in Nigeria (Shalangwa 2013; Kuna and Ibrahim 2016). Prior to the 1990s, the phenomenon of cattle rustling was scarcely prominent in Nigeria. Although there were occurrences of isolated and often small-scale cattle theft in that era, the incidents were largely less organised and less violent. In most cases, the perpetrators were local and petty criminals who pilfer cows furtively from herders' stock either for meat or for subsistence (Okoli and Okpaleke 2014a).

The 1990s saw the transformation of cattle rustling in Nigeria from its subsistence level to a commercialised and militarised trade. This development was partly occasioned by a number of isolated factors, namely:

1. the rising cost (price) of cattle in national and regional markets;
2. the influx and proliferation of Small Arms and Light Weapons (SALWs) in the country;
3. the dislodgement of some nomadic herdsmen from traditional pastoralism in the Sahel, as a result of loss of their herd in the context of prevalence of conflict, drought and disease;

4. the involvement of opportunistic criminals and militants in the cattle theft enterprise;
5. the emergence of local and trans-local networks and markets for the organisation and sale of stolen cattle;
6. the involvement of transnational syndicates in the criminal venture;
7. the prevalence of criminal franchise, opportunism and impunity in Nigeria, amidst growing failure of security governance (Kwaja 2014; Okoli and Okpaleke 2014a; Egwu 2016; Olaniyan and Yahaya 2016).

Cattle rustling criminality came to a head in the 2000s, following the escalation of Boko Haram insurgency in North-East Nigeria. This added a lethal combustion to the cattle rustling challenge. In this context, it has been observed that:

‘conflict entrepreneurs’ are taking advantage of the Boko Haram violence in the north-east and general insecurity in Nigeria to engage in widespread ‘rural banditry’. These gangs of criminals instigate fear and violence to raid communities for livestock and plunder. They often attack during the middle of the night and create chaos, burning homes and shooting guns in the air to cause people to flee, and move to effectively manoeuvre cattle out of the community (Baguand Smith 2017: 11).

The contemporary trajectory of cattle rustling in Nigeria indicates that the phenomenon is becoming rather endemic and intractable. Although the incidence has been generally manifest in all states of northern Nigeria, it has been more prevalent and pervasive in North-West and North Central states, with the following states as the most critical flashpoints.

Table 5: Critical flash-points of cattle rustling in Nigeria

North-West	North Central
Zamfara	Plateau
Kebbi	Nasarawa
Kaduna	Niger
Katsina	Benue
Kano	Kogi

Within the north-eastern region, cattle rustling has been most catastrophic in scale and impact on the Kebbi–Zamfara–Katsina–Kaduna axis. Zamfara State, for instance, has witnessed the worst complications of cattle rustling, resulting in mass village and market raids as well as multiple human casualties (Rufai 2016). Table 6 is instructive of the scale and consequences of cattle rustling in Zamfara State.

Table 6: Estimated number of livestock rustled in Zamfara State in 2016

	Area	Number of livestock
1	Badarawa	Over 200
2	Bagega	Over 4,500
3	Dorayi	Over 2,500
4	Filinga	Over 5,000
5	Gidan Kaso	1,455
6	Guru	270
7	Jangeme	Over 600
8	Kizara	Over 4,000
9	Lilo	90
10	Lingyado	Over 2,100
11	Madaba	106
12	Nasarawa Godal	Over 1,000
13	Nasarawa Mai Layi	Over 500
14	Rukudawa	250
15	Shigama and Kwokeya	1,020
16	Tsabre	Over 3,500
17	Tungar Baushe	1,110
18	Unguar Galadima	850
19	Yar gada	230

Source: MACBAN (2016) as cited in Rufai (2016: 6)

In a recent study conducted by SB Morgen (2016:7), Zamfara State accounted for 446 of the 470 incidents of cattle rustling fatalities recorded in four affected states of northern Nigeria: Kano, Katsina, Niger and Zamfara. One striking feature of cattle rustling in Zamfara State is its rapid episodic pattern and lethality. It has often resulted in mass killings and population displacements (Rufai 2016).

Kaduna state has also been notorious for cattle rustling. The Birnin-Gwari area of the state has been particularly incident-prone. In 2013, over 1,000 cows were stolen by armed-to-the-teeth rustlers from a farm belonging to the former Vice President, Namadi Sambo, in the Birin Gwari area (Egwu 2016: 23). Cattle rustling has also been implicated in the recent serial episodes of inter-communal conflagrations between nomadic pastoralist and native crop farmers in the southern axis of the State (Bagu and Smith 2017). Cattle

rustling has equally been very pervasive in wider North Central Nigeria. In this context, it has been a critical driver of pastoral crisis in Benue, Nasarawa and Plateau States (SB Morgen 2016). Available data point to the fact that Nasarawa and Plateau States have been among the most critical flashpoints of cattle rustling North Central Nigeria (see Table 7).

Table 7: Estimated incidence of cattle rustling in Central Nigeria (2013 to early 2015)

State	No. of cattle rustled	No. of human casualties
Plateau	28,000	264
Nasarawa	25,000	70
Benue	8,680	2,500
Kwara	1,640	150
FCT	1,500	07
Total	64,820	2,991

Source: *Weekly Trust*, 16 May 2015 as cited in Okoli (2016: 418)

More recent records indicate that the incidence of cattle rustling in Nigeria is becoming rather alarming. With the incursion of organised criminal syndicates and insurgents into the cattle rustling escapade, the situation has escalated and convoluted into a sort of an underworld economy that thrives on the principles of existential materialism as well as criminal expediency and impunity. But the consequences have been dire and lethal. According to the Miyetti Allah Cattle Breeders' Association of Nigerian (MACBAN), members of the organisation lost over 2 million cows to cattle rustlers in the two years since 2015 (*Premium Times* 2017). This is in addition to other collateral effects of the crisis, such as human fatalities and the associated human security debacle. The Boko Haram connection to the saga has proved to be one of its most ominous trajectories. It is to this crucial issue that the study now turns.

Insurgency and a political economy of cattle rustling

There is a burgeoning cattle rustling economy in Nigeria. This is evident in the existence of a flourishing underworld cattle 'enterprise' that thrives on the logic of criminal franchise, opportunism and impunity (Kwaja 2014; Okoli and Okpaleke 2014a; Olaniyan and Yahaya 2016). An essential structure of the underworld business is a booming black market for stolen and rustled cattle located in Borno State as well as other states. Affirming the existence of such markets, the Governor of Borno State, Kashim Shettima, once opined:

Our security agencies have reasonably established that most of the cattle traded at the markets (in Borno State) were the direct proceeds of cattle rustling perpetrated by insurgents (and) were sold at prohibitive costs to unsuspecting customers through some unscrupulous middlemen who use underhand ploy(s) to deliberately disguise the transaction as legitimate. The money realized from such transaction(s) would be then channelled to fund their deadly activities (Ogbeche 2016, cited in Olaniyan and Yahaya 2016: 98).

In a bid to mitigate the situation, the Borno State government pronounced in March 2016 a temporary ban on ‘all trading activities at the Gamboru Cattle markets, Dusuman, Shuwari and Ngom’ in an effort to ‘ensure that no public place (in the state) is turned to an avenue for funding activities of the terrorists’ (Channels Television 2016). The government also suspended the importation of cattle to Maiduguri for two weeks, in addition to restricting the permission for the sale and slaughter of cattle only to the Cattle Traders’ Association and the Butchers’ Association respectively (Obaji 2017, para. 37). Equally suspended was the sale of dry meat, which was yet another important ‘article’ of the cattle rustling business. A civil-military task force was set up ‘to enforce stringent conditions in slaughtering including a close monitoring of activities of the cattle traders and butchers to stop all illegal business’ (*ibid.*, para. 39).

Another crucial structure of the cattle rustling enterprise is the abusive exchange relations that involve the insurgents, their commissioned middlemen and the unsuspecting or opportunistic cattle traders and/or consumers. The insurgents ensure regular supplies of stolen/rustled cattle from the hinterlands to the various cattle markets through the aid of unscrupulous paid agents. For instance, ‘for each cow that passes into Maiduguri, unscrupulous members of the Civilian Joint Task Force (CJTF) operating in Sector II (one of the group’s 10 command units in Borno State capital) get paid 5,000 naira (about US\$16.5) by agents working for Boko Haram’ (Obaji 2017, para. 25).

The middlemen commissioned by Boko Haram ensure the sale of the cattle via an arcane transaction shrouded in duplicity. Hence, ‘the middlemen sell so cheap and declare even less to Boko Haram who can’t say anything because they have no direct access to the market ... they could sell a cow usually worth 200,000 naira (about US\$650) for as little as 40,000 naira (about US \$65), and declare just 20,000 (about US \$33) to the militants’ (personal communication cited in Obaji (2017), para. 19).

The criminal enterprise of dealing in rustled cattle is a flourishing concern. It is heavily patronised by both unsuspecting and opportunistic customers (cattle traders and butchers) who are driven by profiteering. As Obaji (*ibid.*) would suggest, the business is ludicrously profitable to the extent that the

average uncritical cattle trader would find it irresistible. So, while the agents, middlemen and traders enjoy brisk business and make fortunes out of the cattle rustling enterprise, insurgents ensure their material sustenance and functionality thereby. As rightly observed by Obaji (2017, para. 17):

But the proceeds (from cattle rustling don't usually return to the militants in cash. Most part of the monies made by the agents is used to buy essential things such as food and fuel for the jihadists who've been suffering from a shortage of these commodities after supply routes were blocked by the Nigerian military.

The economy of cattle rustling in Nigeria has been promoted by the imperative of material survivalism (Okoli and Okpaleke 2014b). For the insurgents, it has been a veritable means of funding and material sustenance. For the criminal actors along its 'value-chain' (the agents, middlemen, opportunistic traders), it is a means of economic accumulation and material aggrandisement. The most abusive dimension of the criminal enterprise is the apparent involvement of state and para-state agents. This is exemplified in the alleged complicity of soldiers, policemen and some members of the civilian vigilante groups in the act (Obaji 2017).

The incidence of cattle rustling in northern Nigeria and its complications under the dispensation of the Boko Haram insurgency, to a large extent, reflect a fundamental logic, nay 'economics', of queer capitalist syndrome (Okoli and Okpaleke 2014b; Okoli 2014). This indicates a prevalence of an illicit business that incubates and hibernates on the reverse side of the law. While this business has had its desperate gainers, as indicated above, it has also produced vulnerable victims. The losers include the traditional and modern herders or ranchers who have been dispossessed of their cattle; the abductee-herdsmen who are often commandeered by the insurgents to drive rustled cattle in a dare-devil sojourn through the forested landscapes to the designated points of translocation and/or sale; as well as vulnerable rural community dwellers (farmers and herders alike) who are often killed or maimed in militarised village and market raids that often typify the cattle rustling onslaught.

Cattle rustling proceeds and the Boko Haram insurgency

How do cattle rustling proceeds fuel the Boko Haram insurgency? To properly attend to this analytically, it may be more apposite and rewarding to reformulate the question thus: what and how have cattle rustling proceeds contributed to the Boko Haram insurgency? To begin with, it is instructive to note that:

Nigerian authorities have recorded an increase in cattle/livestock rustling activities mainly in the north and north-west regions of Nigeria that is directly

connected to BH (Boko Haram). Most attacks occur in remote villages, close to forested regions in the north-west where there is little security presence. These activities are profitable for BH but also terrorise the local population and deprive them of their food and livelihoods (FATF-GIABA-GABAC 2016: 12).

Subscribing apparently to a perverse philosophy of ‘existential materialism’, Boko Haram insurgents have resorted to both ‘retail’ and ‘wholesale’ cattle rustling and trading. The activity is carried out through a number of modalities, including:

1. creating its own markets to sell stolen cattle in Boko Haram-controlled territory;
2. scattering and selling the cattle in smaller numbers (maximum of five) at distant markets to avoid detection by the authorities;
3. selling the cattle in small local markets; and
4. hiding the cattle in neighbouring countries to be sold at a later stage (FATF-GIABA-GABAC 2016: 12).

The sources of the rustled cows were varied. Some were stolen from rangelands in the hinterlands of North-East and North-West Nigeria (Bagu and Smith 2016) while others were expropriated from cattle farms and ranches in northern Cameroon (Obaji 2016). In some instances, some of the rustled cattle were transported to Niger ‘to be sold at a later stage’ (FATF-GIABA-GABAC 2016: 12).

The material proceeds of Boko Haram’s cattle rustling enterprise are threefold: money, milk, meat (the threesome M-M-M). The money is generated through direct and indirect sale of both mature and infant cattle through the outlets indicated above. The milk and meat are sourced from cattle that are harboured within the domains of Boko Haram’s occupied territories. While the money is used to provide for the logistical and material needs of the insurgents, milk and meat constitute an essential component of the group’s dietary requirements.

Boko Haram insurgents mostly made use of commissioned agents and middlemen to organise and effectuate the sale of rustled cattle (Mohammed 2016). There were cases whereby the insurgents had to resort to the direct exchange of cows for food stuffs or fuel in order to meet the exigencies of survival (personal communication 2017). It is difficult to quantify the volume of cash that the insurgents generate via the cattle rustling venture. It is even more difficult to track and scale the financial flows thereof in real material terms, in view of the obvious clandestine nature of the transactions. Nonetheless, available anecdotal and documented evidence suggest that the price of a rustled cow in the ‘black market’ ranges from 40,000 to 20,000

naira. To empirically illustrate the strategic utility of cattle rustling proceeds to the Boko Haram insurgency, a few examples suffice. Table 8 below is instructive in this regard.

Table 8: Boko Haram cattle rustling incidents alongside estimation of financial worth

Incident(s)	Estimated Worth
<p>On a day in September 2014, 7,000 cows from Chad heading to Maiduguri (Nigeria) were confiscated by Boko Haram around Dikwa in Nigeria.</p> <p>On 14 January 2016, Boko Haram stole 4,244 cows from 25 Choa Arab owners in Hile, Fotokol and Makary in the vicinity of Cameroon.</p> <p>On 12 April 2016, Boko Haram stole 13,511 cows in the Kolofota sub-division of Cameroon.</p>	<p>Based on estimates of the minimum value of cattle (EUR500), the minimum value of the 24,755 cattle stolen by Boko Haram in these three instances was approximately EUR 12,377,500 or CFA8,107,262,500.</p>
<p>In July 2016, BH members rustled 20,000 cattle from villages (unidentified) in Maidiguri, Borno State. The cows were transported to a market in Jigawa State through the Republic of Niger in order to hide their origin and make them look like they came from a legitimate source.</p>	<p>The estimated value of each cow was approximately 150,000 naira or US\$500. The total estimated value of this particular rustling was 3 billion naira or US\$10 million.</p>
<p>In July 2016, Boko Haram rustled between 500 and 1,000 animals from one individual in Borno State. It is likely the rustled animals were sold at the market in Jigawa State and the meat processed immediately.</p>	<p>Estimates not available.</p>
<p>In an operation, the CJTF found 1,300 cow skins. The cows were stolen from the Lake Chad Basin, slaughtered and processed into dry meat and transported to a market in Yobe for sale in the southern part of the country</p>	<p>A sack of dry meat costs approximately 150,000 naira, which brought the total estimated value of the dry meat to 195,000,000 naira or US\$650,000.</p>
<p>In July 2016, Boko Haram rustled cows from Maiduguri, Borno State to a cattle market in Jigawa through Niger to avoid security checks. They loaded a trailer full of 25 to 50 cows daily.</p>	<p>Each cow was sold at a flat rate of 40,000 naira (obviously below the market value).</p>

Source: FATF-GIABA-GABAC (2016: 12–13)

The content of Table 8 has very important implications. Firstly, given the recency of the information, it is apparent that cattle rustling currently constitutes the major source of Boko Haram funding. Secondly, Table

8 indicates that cattle rustling and the Boko Haram insurgency are, to a reasonable extent, mutually reinforcing. This is apparently in keeping with the 'conflict–crime nexus' hypothesis (Jespersen 2017). Thirdly, there is some indication that a flourishing cattle rustling enterprise exists, with identifiable transit and market structures. The serial references to the rustling routes and markets in Borno and Jigawa States attest to this fact (Baguand Smith 2016; FATF-GIABA-GABAC 2016).

Most importantly, the recent degrading of Boko Haram's operational capabilities by government forces (Okoli 2017) has badly affected their funding status and prospects. To be precise, the dislodgement of the insurgents from their hitherto occupied territories and fortified forested fortresses has invariably meant that sourcing funds via territorial looting and extortion (forced taxes, protection/security levies) is no longer effective and/or feasible. This has, therefore, placed an immense premium on cattle rustling as a strategic option for survival and subsistence by the insurgents. To counter this trend, both Nigerian and Cameroonian authorities have closed down a number of cattle markets, such as those in Gamboru, Dusuman, Shuwari and Ngom (in Borno State Nigeria) as well as a prominent cattle market in the far north region of Mayon-Sava in Cameroon (Obaji 2017).

Some Strategic implications and the way forward

It is a platitude to state that insurgency costs money. In fact, money is indispensable to any insurgent movement. Without money, no insurgent organisation can function effectively, let alone sustain its operations. If the existence and functionality of insurgent organisations are dependent on funding, it follows, therefore, that any meaningful strategy of counter-insurgency must recognise and prioritise the need to prevent insurgents from acquiring funds to finance their operations (cf. Bloemkolk 2014).

Following Freeman's (2011) theoretical exposition, effective counter-insurgency is contingent on the capacity of states to negate the 'six conditional indices/criteria' of terrorism financing: quantity, legitimacy, security, reliability, control and simplicity. So, if insurgents 'want to acquire money in large quantities, legitimately, securely, reliably, simply, and in a way that they can control, then states must reduce the quantity of funds and make their acquisition illegitimate, dangerous, unreliable, distracting, and complicated' (*ibid.*: 472).

This underscores the need for better and smarter ways of attacking sources of insurgents' funding in order to degrade their operational capabilities. What then goes precisely for cattle rustling as a veritable source

of Boko Haram's funding? The solution rests with the ability of the Nigerian state to devise a pragmatic means of negating the prospects of cattle rustling as an avenue for insurgent funding. This would entail the need to adroitly identify and dismantle the enabling 'infrastructure' of cattle rustling in the country and its borderlines: the sources, syndicates, networks, markets and routes, as well as the exchange and transit structures. This, however, requires a hinterland and borderland policing strategy that privileges a synergy between the public security operatives and local (even nomadic) vigilantes on a sub-regional scale.

Conclusion

Cattle rustling has been an important dimension of rural banditry in northern Nigeria. Its saliency as organised crime has been bolstered over the years by Boko Haram insurgents who resort to it as a means of sustaining their operations. Financial proceeds from cattle rustling have been a major source of funding to the Boko Haram insurgency. They have been deployed by the insurgents in meeting their essential logistics and supplies.

By providing funding and material sustenance to Boko Haram, cattle rustling has posed a strategic challenge to the fight against insurgency in northern Nigeria. The implication of this is that any meaningful counter-insurgency endeavour in that respect must recognise the need to undermine the existing structures and avenues of terror financing. And in the case of cattle rustling, respite lays with the dislodgement of the sources, markets, syndicates, networks and routes, as well as the exchange and transit structures that benefit the criminal franchise. This is a veritable challenge to the Nigerian state and its national security apparatus in the face of cattle rustling-insurgency problematique.

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Financement des groupes armés et gouvernance démocratique en République démocratique du Congo

Roger Thamba Thamba*

Résumé

Les conflits armés en République démocratique du Congo sont des *activités hautement lucratives* s'autofinçant par le pillage et l'exploitation des ressources naturelles. Ce qui représente une réelle menace au processus démocratique à peine remis en chantier dans la mesure où l'exploitation illégale des ressources crée un état d'insécurité persistant, hostile à la conduite des processus électoraux, et occasionne la fuite des capitaux nécessaires à l'organisation des élections et au financement des projets de développement visant la satisfaction des besoins sociaux de base. Pour lutter efficacement contre la prolifération des groupes armés sur le sol congolais, et ainsi servir la cause de la gouvernance démocratique, il faudrait restaurer l'autorité de l'État sur l'ensemble du territoire national, redynamiser le secteur de la justice, et définir une politique durable de gestion des ressources naturelles visant avant tout à priver les groupes armés de leurs moyens de subsistance.

Mots-clés : groupes armés, financement, pillage, exploitation illégale, ressources naturelles, gouvernance démocratique

Abstract

Armed conflicts in the Democratic Republic of the Congo are highly lucrative activities financed through looting and exploitation of natural resources. This represents a real threat to the democratic process that has just resumed, as the illegal exploitation of resources creates a state of persistent insecurity, hostile to the conduct of electoral processes, and provokes the flight of capital necessary for the organization of elections and the financing of development projects aimed at meeting basic social needs. To effectively fight the proliferation of armed groups on Congolese soil, and thus serve the cause of democratic governance, it would be necessary to restore the authority of the State over

* Diplôme d'études supérieures en droit public (Master 2), Université de Kinshasa (RDC).
E-mail : rthambamich@gmail.com

the entire national territory; to revitalize the justice sector; and to define a sustainable natural resource management policy aimed primarily at depriving armed groups of their livelihoods.

Keywords: Armed groups, financing, looting, illegal logging, natural resources, democratic governance

Introduction

Le territoire de la République démocratique du Congo (RDC), particulièrement sa partie orientale, est une véritable mosaïque de groupes armés qui y sévissent depuis deux décennies, semant la terreur et la mort parmi les paisibles citoyens. Le tableau de ces groupes armés est d'une effroyable complexité, dont la caractéristique majeure est la prolifération en dépit de quelques mesures prises pour les éradiquer.

Depuis 1996, l'est de la RDC se présente comme un véritable théâtre des affrontements sanglants opposant tantôt les forces loyalistes (forces armées de la RDC) aux mouvements rebelles, tantôt les mouvements rebelles entre eux, occasionnant d'horribles crimes dans le domaine du droit international des droits de l'homme et du droit international humanitaire, notamment les massacres des populations civiles, les actes de torture, les pillages des biens et des ressources, l'enrôlement d'enfants-soldats, les viols et autres formes de violences sexuelles, atteignant en 2007 le chiffre de près de 5 millions de morts. Des études récentes font doubler ce chiffre étant donné la poursuite des hostilités (Mbokani 2016:2-3). La monstruosité de ces conflits armés a poussé certains à parler de la « Grande Guerre africaine » qui, au début, avait impliqué près de sept armées étrangères, sans compter les mouvements rebelles.

Parmi les questions les plus préoccupantes suscitées par l'étude des groupes armés en RDC figurent, d'une part, celle liée aux causes de leur émergence et, d'autre part, celle relative aux moyens de leur permanence, impliquant donc la question de leur financement, tant il est vrai qu'aucune guerre ne saurait être menée sans moyens financiers, humains, matériels et logistiques conséquents. Et si l'on tient compte de la permanence des conflits armés sur le sol congolais, la question devrait, bien évidemment, susciter l'attention des chercheurs et des décideurs tant sur le plan national et régional que sur le plan mondial, pour servir la cause de la paix et de la sécurité de l'humanité.

À ce sujet, des études intéressantes, en partant du rapport du groupe d'experts de l'ONU de 2001, ont fait savoir que si la sécurité et les raisons politiques ont été invoquées comme motivation première des acteurs

impliqués dans les conflits, tout indique que certains avaient sans nul doute des desseins plus obscurs, en l'occurrence des objectifs économiques et financiers (Groupe d'experts de l'ONU 2001:7). Si bien qu'il a été reconnu que le conflit en RDC est un conflit qui s'autofinance (Groupe d'experts de l'ONU 2001:28).

Détaillant l'économie politique des conflits en RDC, Pierre Jacquemot (2009:187) distingue le modèle du grief – dans lequel le conflit résulte des inégalités, de l'oppression politique et des divisions soit ethniques, soit religieuses – du modèle de la cupidité, mettant l'accent sur le rôle joué par les ressources naturelles dans l'émergence et l'entretien des conflits. Pour l'auteur, bien que la cupidité semble être l'un des fondements de l'instabilité récurrente régnant en RDC, les causes des conflits dans ce pays sont multiples, empruntant aux deux modèles et à bien d'autres explications (Jacquemot 2009:189). Cependant, selon nous, la thèse de la cupidité prévaudrait sur celle du grief, car les autres raisons liées à la permanence des conflits armés sur le sol congolais semblent surtout servir de prétexte au contrôle, à l'exploitation et au pillage des ressources.

Ainsi l'exploitation des minerais serait-elle, sinon impliquée à la source, du moins dans le prolongement des conflits, constituant une véritable « économie de guerre » dans la mesure où les groupes armés en retireraient des revenus qui leur permettent de financer leurs activités (Geenen, Kamundala & Iragi 2010-2011:161). Les conflits du Congo sont donc des activités hautement lucratives (Jacquemot 2009:201), et de ce fait, la RDC est aujourd'hui le cas emblématique de la problématique des « minerais de sang » (CJP 2012:5).

Cependant, si le lien semble établi entre le pillage et l'exploitation des ressources naturelles comme moyen principal de financement des groupes armés et cause de la permanence de l'insécurité sur le territoire congolais, le rapport entre ces flux financiers illicites et la gouvernance démocratique se présente à ce jour comme une piste non encore explorée. Ce qui explique l'intérêt de la présente étude, qui entend insister sur ce lien. Le financement devrait s'analyser dans son sens le plus large, incluant les soutiens financiers, mais aussi l'approvisionnement en moyens matériels et logistiques, dans la mesure où tous ces moyens nécessitent en amont des moyens financiers.

Inscrite dans une approche essentiellement qualitative, se basant sur la littérature en rapport avec les groupes et les conflits armés sur le territoire de la RDC, la présente étude se propose de montrer que les soutiens financiers apportés aux forces militaires négatives, non seulement ont de l'incidence sur la sécurité dans la région, sur celle du territoire congolais, de ses populations et de leurs biens, mais aussi et surtout compromettent le chantier de la

gouvernance démocratique à peine remis en marche après une longue période de dictature et de transition politique. L'étude tente avant tout d'analyser la complexité des groupes armés sur le territoire congolais (I), ensuite d'exposer leurs ressources financières (II) et leur incidence sur la gouvernance démocratique, et explore enfin quelques pistes pour non seulement freiner, à défaut d'y mettre fin, la cadence vertigineuse des groupes armés, mais aussi pour casser les bases économiques sur lesquelles ils sont assis.

Complexité des groupes armés opérant dans la partie orientale de la RDC

La partie orientale de la RDC est constituée de trois provinces, à savoir la province du Nord-Kivu, du Sud-Kivu et du Maniema, constituant autrefois le Grand-Kivu. Ainsi que nous l'avons signalé, les groupes armés qui y opèrent relèvent d'une certaine complexité tenant, d'une part, à leur diversité, ce qui pose le défi de leur classification et de leur cartographie, et, de l'autre, à la problématique de leur résurgence et de leur permanence en dépit des tentatives de les intégrer dans l'armée nationale congolaise ou carrément de les éradiquer sur le sol congolais.

Diversité des groupes armés

Depuis la guerre de 1996 conduite par la rébellion de l'Alliance des forces démocratiques pour la libération (AFDL) jusqu'à ce jour, plusieurs rébellions se sont succédé à un rythme effréné, particulièrement à l'est du pays. La diversité de ces groupes armés se laisse voir à plus d'un titre. L'on compte parmi eux ceux qui sont structurés et ceux qui ne le sont pas. On y trouve également des milices d'autodéfense ou à connotation ethnique se présentant parfois comme un appui à l'armée nationale congolaise (l'exemple de certaines factions des Maï-Maï et des Raïa Mutomboki). La plupart de ces groupes armés se réclament de la nationalité congolaise, d'autres, en revanche, sont des mouvements rebelles étrangers, à l'exemple des Forces démocratiques alliées (Allied Democratic Forces/ADF) et de l'Armée nationale de libération de l'Ouganda (National Army of the Liberation of Uganda/NALU), unies depuis 1995 et formant ainsi les ADF/NALU, des Forces démocratiques de libération du Rwanda (FDLR/Rwandais) et des Forces nationales de libération (FNL/Burundais).

Dans la mesure où ces groupes naissent, se dissolvent, disparaissent, se réforment sous d'autres appellations, s'allient entre eux ou se scindent à une cadence vertigineuse (Berghazan 2013:5), il est même difficile de les

classifier ne serait-ce que suivant le critère de nationalité, car de nombreux combattants congolais ont rejoint les groupes étrangers et vice-versa, de nombreux étrangers combattant dans certains groupes autochtones (Berghezan 2013:5). La localisation de ces groupes pose également problème, car à chaque fois qu'un groupe se dissout, la tendance est à la récupération de son site de prédilection par les groupes encore actifs. L'autre difficulté est liée aux raisons présidant à leur existence dans la mesure où plusieurs mouvements combattent contre les forces armées congolaises, tandis que d'autres combattent contre d'autres mouvements rebelles, souvent ceux de nationalité rwandaise, ougandaise ou burundaise ayant trouvé refuge dans la partie orientale du pays, dont les ADF, les FDLR et les FNL.

Mais l'une des réalités des groupes armés sévissant à l'est de la RDC est leur fragmentation. En effet, alors qu'en 2008, l'on comptait moins de 30 groupes rebelles sur le territoire congolais, en 2017, on en compte au moins 70 (Kibugundila 2017). Une augmentation inquiétante pour un pays qui entendait, dès 2006, normaliser sa situation politique avec l'organisation de premières élections pluralistes, qui venaient ainsi résoudre un tant soit peu la fameuse crise de légitimité des institutions et de leurs animateurs dont le pays a souffert depuis l'indépendance. Cette fragmentation serait due à l'échec des tentatives de lutte contre les groupes armés effectuées principalement par le gouvernement congolais.

À titre illustratif, à la dissolution du Mouvement du 23 mars (M23), plusieurs groupes ou coalitions ont éclaté en deux groupuscules ou plus. Le cas de la Nduma Defence of Congo (NDC) fractionnée en deux branches armées distinctes, en l'occurrence la NDC rénovée avec le commandant Guidon et la NDC/Sheka. Les Raïa Mutomboki, signifiant en swahili « peuples en colère », éclataient également pour la énième fois en plusieurs factions. Créés en 2005 en réaction aux exactions des FDLR, les Raïa Mutomboki donnaient naissance à une nouvelle branche en 2011 et à deux nouvelles branches en 2012, notamment.

Cependant, parmi les 70 groupes armés sévissant sur le territoire de la RDC, près d'une dizaine demeurent actifs, en l'occurrence les Maï-Maï, l'Alliance des patriotes pour un Congo libre et souverain (APCLS), les Nyatura, les Mazembe, les ADF (Allied Democratic Forces), les NDC, les FDLR et les Raïa Mutomboki. Les FDLR constituent le groupe le plus dangereux potentiellement, avec ses combattants estimés entre 1 000 et 2 500 hommes. En effet, n'ayant plus été en mesure de mener des raids en territoire rwandais d'où ils sont originaires, les FDLR multiplient des attaques sur le sol congolais. L'on peut rappeler ici l'attaque du 6 au 7 janvier 2016 qui a fait 14 morts à Maribi, une localité située au nord de Goma.

Les rebelles ADF sont également à compter parmi ceux qui menacent encore sérieusement la paix à l'est de la RDC. Ces derniers sont responsables des massacres à répétition dans le territoire de Beni. Cependant, malgré la dangerosité que présentent ces groupes armés, les stratégies gouvernementales visant à les éradiquer semblent jusqu'ici inefficaces; pour s'en convaincre, il suffit de constater leur permanence et leur résurgence.

Stratégies gouvernementales de lutte contre la résurgence des groupes et mouvements rebelles

Après le dialogue inter-congolais tenu à Sun City en 2002, l'un des défis qu'il fallait relever était le retour à la paix et à la stabilité dans le pays. Et l'une des voies pour y arriver était celle de la réforme des services de sécurité. Cette réforme consistait non seulement en une formation et intégration d'une nouvelle armée et d'une police nationale, mais aussi en une mise en œuvre de programmes de désarmement, de démobilisation et de réintégration (DDR) pour les combattants congolais et pour les groupes armés étrangers se trouvant sur le territoire de la RDC (Sebahara 2006). L'intégration des troupes extrêmement disparates s'était révélée comme le « prix de la paix » à payer avant toute chose (Berghezan 2014:3).

Le brassage et le processus de DDR constitueront les deux axes sur lesquels le gouvernement focalisera son attention. Le brassage est un processus spécifique d'intégration de membres de groupes armés et des FAC (Forces armées congolaises) dans les FARDC (Forces armées de la RDC) dans les années qui ont suivi la fin de l'occupation étrangère de la RDC. Mais le processus a été jugé globalement négatif (Berghezan 2014:6), suite à de multiples problèmes, notamment l'incertitude sur le nombre des militaires à interroger, le manque de moyens, les conditions déplorables offertes aux soldats dans les centres de brassage où certains seraient morts de maladie et même de faim, les problèmes récurrents d'indiscipline de soldats qui s'étaient naguère combattus, et l'absence de volonté politique aussi bien dans la haute hiérarchie militaire qu'au sommet de l'État. Cet échec explique grandement la résurgence de l'insécurité, avec la naissance de nombreux groupes armés, dont le CNDP (Congrès national pour la défense du peuple) sous la houlette de Laurent Nkunda. Face à leur incapacité à contre-attaquer devant les éléments du CNDP, les autorités congolaises opteront pour la négociation. Celle-ci aboutira à un accord en juin 2007 à Kigali, prévoyant cette fois-ci le « mixage » de deux brigades de Nkunda avec trois brigades des FARDC (Radio Okapi 2015a).

Ces troupes seront par la suite déployées au Nord-Kivu pour combattre les FDLR, groupe armé composé de Hutus rwandais, dont certains ont pris part au génocide rwandais de 1994 (Radio Okapi 2015a).

Cependant, l'indiscipline des éléments du CNDP qui ne voulaient, à la suite du mixage, obéir qu'à leurs anciens chefs dans la rébellion, obligera Kinshasa à renoncer à cet accord, dénonçant son inanité et décidant que tous les soldats devraient passer par le brassage et qu'il était inconcevable pour les membres d'une armée nationale de rester dans leurs régions d'origine pour protéger leurs « tantes et leurs oncles » (Radio Okapi 2015a). D'un seul coup, les fidèles de Nkunda vont quitter leurs unités et reprendre la rébellion. De nouveaux combats vont éclater le 28 août 2007. Joseph Kabila aura de nombreuses rencontres avec le président rwandais Paul Kagame, donnant lieu à un « communiqué de Nairobi » de novembre 2007 (Centre d'actualité de l'ONU 2007). En même temps, un dialogue entre autorités civiles, acteurs civils et 22 groupes armés des deux Kivu va aboutir le 23 janvier 2008 à l'acte d'engagement de Goma prévoyant explicitement un cessez-le-feu. Mais ce ne fut pas la fin de l'histoire, car les affrontements vont se poursuivre par intermittence, avec le soutien direct, selon plusieurs sources, du Rwanda (Digital Congo 2008).

Suivra ensuite une stratégie d'opérations militaires. À la suite de deux opérations militaires, dont « *Umoja-Wetu* » (« notre unité ») lancée du 20 janvier au 25 février 2009, et « *Kimia II* » (« la paix »), menées contre les rebelles du CNDP, ce dernier sera intégré du jour au lendemain au sein des FARDC, par accord signé le 23 mars 2009, et Bosco Ntaganda sera nommé commandant adjoint des opérations (Radio Okapi 2015b). Cette intégration accélérée sera accompagnée de la libération et de l'amnistie des ex-rebelles et de la transformation du CNDP en parti politique.

Ces opérations militaires vont se poursuivre avec l'offensive lancée cette fois contre les rebelles FDLR. Une troisième opération « *Amani Leo* » (« la paix aujourd'hui ») sera ainsi lancée le 1^{er} janvier 2010. Déjà affaiblis à cause d'importantes pertes et redditions, les FDLR devaient dorénavant s'enfoncer plus profondément dans le territoire congolais tout en conservant leur capacité de nuisance, en se muant en petites unités autonomes plus difficiles à traquer. Les troupes vont désertir massivement et former un nouveau groupe armé : le Mouvement du 23 mars (M23). Ce mouvement avançait, au départ, le prétexte de la non application de l'accord du 23 mars 2009 avec le CNDP, d'où il tire son nom, et pourtant, il semble que le gouvernement s'était donné la peine d'appliquer les mesures à court terme et simplement militaires (Berghezan 2014:13) en permettant, par exemple, aux ex-CNDP de prendre le contrôle des deux Kivus (Berghezan 2014:13). L'opposition du M23 provoque un regain d'insécurité à l'est et la réactivation des groupes armés, dans un contexte de contestation de la légitimité du président Kabila, proclamé réélu à la suite des élections chaotiques du 28 novembre

2011. Ce mouvement du 23 mars va bénéficier du soutien du Rwanda et de l'Ouganda, suscitant ainsi des interrogations sur sa nature. Le M23 montera en puissance avec la prise de la ville de Goma, le 20 novembre 2012, représentant une humiliation suprême pour les FARDC (Berghezan 2014:13). Il a donc fallu attendre mai, juillet et août 2013 pour assister aux premiers succès militaires significatifs des FARDC, après dix ans d'existence. En effet, trois offensives du M23 ont été facilement repoussées. Fin octobre particulièrement, une offensive coordonnée des FARDC et de la nouvelle Brigade d'intervention de la MONUSCO (Mission de l'Organisation des Nations unies pour la stabilisation en République démocratique du Congo) contraignait la majorité des combattants du M23 à fuir en Ouganda et signifiait pratiquement la fin de la menace militaire représentée par ce groupe armé. Cependant, bien que dissous, le M23 continue de créer la psychose parmi la population et les autorités tant locales que nationales. Enfin, le gouvernement a lancé les opérations « *Sokola* » (Nettoyer) I et II, toujours contre les mouvements rebelles étrangers, notamment les FDLR et les ADF.

S'il est vrai que ces opérations ont permis de déloger et de disperser certains des plus gros mouvements qui jouaient un rôle dominant dans leurs fiefs, notamment les FDLR, le fait est que les zones antérieurement contrôlées par les groupes intégrés ou délogés de leurs fiefs ont été l'objet d'une profonde fragmentation, donnant naissance à d'autres groupes armés et mouvement d'autodéfense (Verweijen & Iguma-Wakenge 2015:4). De plus, les opérations militaires ont pour faiblesse de ne viser généralement qu'un groupe particulier (Verweijen & Iguma-Wakenge 2015:5). Ce qui démontre justement la limite des mesures jusqu'ici envisagées par le gouvernement.

Comme on peut le constater, toutes les stratégies de lutte contre les groupes et mouvements rebelles se sont soldées par des échecs. Tantôt c'est le brassage, tantôt le mixage, tantôt c'est l'attribution des postes juteux aux ex-rebelles, tantôt les opérations militaires. Sur le terrain on observe un regain d'insécurité et une montée vertigineuse du nombre de groupes armés commettant toute sorte d'abus parmi les citoyens. Et à ce jour, l'est du pays est loin d'être à l'abri de la terreur, en témoignent les derniers massacres horribles des ADF sur le territoire de Beni. La diversité des groupes armés et surtout leur permanence dans la partie orientale de la RDC incitent donc à vérifier la pertinence de la thèse de Yartey (2004) suivant laquelle « les rebelles sont eux aussi des agents économiques rationnels, qui maximisent leur fonction d'utilité après avoir évalué le profit attendu du conflit » dans lequel des moyens financiers, humains, matériels et logistiques sont investis.

Financement des activités des groupes armés opérant sur le territoire congolais

Ainsi que le révèlent plusieurs rapports pertinents des Nations unies et des organisations non gouvernementales, les conflits dans l'est de la RDC sont des conflits qui s'autofinancent grâce à l'exploitation illégale des ressources naturelles. Le pillage et l'exploitation des minerais constituent la principale source de financement de ces groupes et mouvements rebelles qui pullulent sur le sol congolais. D'autres sources peuvent aussi être mentionnées.

Exploitation illégale des ressources naturelles

La RDC est dotée d'un énorme potentiel économique qui représente environ 17 pour cent de la production mondiale du diamant, 34 pour cent de la production mondiale de cobalt, 10 pour cent de la production mondiale du cuivre, et 60 à 80 pour cent des réserves mondiales de colombo tantalite (coltan). Elle dispose en outre d'une biodiversité remarquable, de ressources forestières très riches et de sols fertiles se prêtant à l'agriculture (Groupe d'experts des Nations unies 2001:6). Ces richesses suscitent une convoitise à laquelle il est difficile de résister du fait de l'anarchie et de la faiblesse de l'autorité de l'État (Groupe d'experts des Nations unies 2001:44). Les principales ressources visées par l'exploitation illégale sont le coltan, le diamant, le cuivre, le cobalt et l'or. Les groupes et conflits armés en RDC, particulièrement dans sa partie orientale, forment donc des activités hautement lucratives, se nourrissant eux-mêmes par la vente des minerais (Jacquemot 2009:201). Les bénéfices dégagés de l'exploitation illégale des ressources minérales et forestières servent aux belligérants à l'achat des armements lourds, canons, mortiers de longue portée, AK-47, munitions, appareils de transmission et uniformes à l'étranger, par des voies tout aussi frauduleuses, sur les marchés est-européens et, de plus en plus, asiatiques (Jacquemot 2009:201).

Cette exploitation illégale des ressources naturelles s'effectue sous diverses formes, dont la confiscation, l'exploitation directe, le monopole forcé et la fixation des prix (Groupe d'experts des Nations unies 2001:4), et a commencé avec la première guerre de libération, en 1996, conduite par l'Alliance des forces démocratiques pour la libération (AFDL), appuyée par des militaires angolais, rwandais et ougandais qui s'étaient emparés des régions est et sud-est du pays (Groupe d'experts des Nations unies 2001:7). Au cours de leur marche vers Kinshasa, le leader de la rébellion, Laurent Désiré Kabila, signait des contrats avec un certain nombre de sociétés étrangères. Ainsi, dès 1997, de nombreux hommes d'affaires faisaient leur entrée à l'est de la RDC. Ainsi,

au moment où éclatait la deuxième guerre en août 1998, les partisans ayant pris la décision de s'y engager se recrutaient parmi les officiers supérieurs rwandais et ougandais qui avaient servi pendant la première guerre et qui avaient déjà une idée des bonnes affaires que l'on pouvait réaliser dans la région (Groupe d'experts des Nations unies 2001:7). Un mois seulement après l'ouverture des hostilités, le général James Kizini se livrait déjà à des activités commerciales (Groupe d'experts des Nations unies 2001:7). La structure et les réseaux financiers étaient immédiatement mis en place, dont la Banque commerciale du développement et de l'industrie (BCDI) sise à Kigali. L'exploitation des ressources naturelles se fera en deux phases, d'abord le pillage systématique des stocks de minerais, de café, de bois, de bétail et des fonds qui se trouvaient dans les territoires conquis par les armées rwandaises, burundaises et ougandaises. Ces ressources seront emportées pour être soit transférées dans ces pays, soit exportées sur les marchés internationaux (Groupe d'experts des Nations unies 2001:3). Ensuite suivra l'exploitation endogène et exogène, impliquant chefs militaires congolais et étrangers, décideurs de la RDC à Kinshasa et hommes d'affaires ayant obtenu l'accès aux sites miniers par les rebelles. La conséquence fut l'accès des rebelles et des armées étrangères à des ressources financières énormes et enrichissantes et la mise en place des réseaux illégaux.

Dès l'instant que les belligérants ont eu le contrôle des ressources naturelles, les motivations politiques de la guerre ont cédé le pas aux motivations économiques et financières, si bien qu'il sera difficile de mettre définitivement un terme à cette spirale de conflits. En effet, malgré le dialogue inter-congolais de Sun City de 2002, qui a mis en présence tous les seigneurs de guerre en vue de pacifier le pays et de lui donner les chances de se reconstruire, l'inclination vers la rébellion est devenue une habitude, si bien que malgré le retrait progressif des troupes étrangères du territoire congolais, l'on assiste à la prolifération, à un rythme très inquiétant, de groupes armés et de milices d'autodéfense sur le territoire congolais.

L'exploitation illégale des ressources naturelles de la RDC a alerté l'ensemble de la communauté mondiale depuis la publication du rapport du groupe d'experts de l'ONU en 2001. Ces minerais ont été qualifiés de « minerais de sang » (Pole Institute 2010). Des tentatives de découragement de ce genre de pratiques ont été menées aussi bien au niveau universel que régional ou national, en l'occurrence le système de certification du processus de Kimberley, les lignes directrices de l'ONU sur le devoir de diligence pour une chaîne d'approvisionnement responsable des minéraux provenant d'endroits suspects afin d'atténuer les risques de fourniture d'un soutien direct ou indirect au conflit dans l'est de la RDC, le guide de l'OCDE (Organisation

de coopération et de développement économiques) sur le devoir de diligence pour des chaînes d'approvisionnement responsables en minerais provenant de zones de conflits à haut risque, le mécanisme régional de certification de la Conférence internationale sur la région des Grands Lacs (CIRGL), la section I 502 du Dodd Frank Wall Street Reform and Consumer Protection Act de 2000 (Loi de réforme et de protection des consommateurs, dite « Loi Dodd Frank ») obligeant les entreprises immatriculées auprès de la Securities and Exchange Commission (SEC) à enquêter sur les pays d'origine de l'ensemble de l'étain, du tantale, du tungstène ou de l'or contenu dans leurs produits : si ces métaux viennent de la RDC, ces entreprises sont tenues de soumettre leurs chaînes d'approvisionnement à une diligence raisonnable afin d'établir si elles ne financent pas des groupes armés (Global Witness 2014:9). Sur le plan national, l'on peut aussi signaler la réforme du code minier en 2002, mais surtout l'arrêté ministériel n° 0057/CAB/MIN/MINES/01/2012 du 29 février 2012 qui a endossé l'essentiel des mesures prises au niveau mondial et régional, sans ignorer la suspension des activités minières artisanales au Sud-Kivu visant la formalisation du secteur (Geenen 2011:103).

Autres sources de financement

Le pillage et l'exploitation des ressources naturelles constituent bien évidemment la source principale de financement des activités militaires et paramilitaires sur le territoire de la RDC depuis 1996. Néanmoins, les stratégies économiques des groupes armés se sont diversifiées depuis 2009, comptant désormais sur le commerce des produits de base, le prélèvement des taxes illégales auprès des populations locales et plus particulièrement auprès des mineurs artisanaux, étant donné que l'exploitation des minerais est largement informelle à l'est de la RDC, de même que sur la vente de produits agricoles comme l'huile de palme et le cannabis. Il semble que, depuis lors, ces ressources constituent les principales sources de financement de certains groupes armés comme les FDLR (CJP 2012:51-52).

Ces sources supplémentaires rentrent dans l'approche des économies dans la guerre, différentes de l'économie de guerre que constitue l'exploitation illégale des ressources naturelles (Hugon 2009:68). C'est également dans l'ordre des sources supplémentaires, dans le cas atypique de la RDC, que l'on peut situer les soutiens financiers et matériels reçus de puissances étrangères, dont le Rwanda et l'Ouganda, et de certaines entreprises prédatrices en quête de ressources en contrepartie d'armes et autres matériels de guerre. À noter que l'accès aux ressources de la RDC est un enjeu majeur pour les multinationales (Bucyalimwe Mararo 2013), particulièrement celles qui sont implantées dans la région.

Toutefois, ces autres sources sont la conséquence logique de l'occupation d'une portion du territoire national par les rebelles. Ce qui conforte la thèse de l'autofinancement des conflits armés à l'est de la RDC, car les financements internationaux directement reçus des puissances étrangères ou des multinationales sans la contrepartie des ressources sont rarement signalés et seraient de moindre importance. Les ressources naturelles constituent donc « le nerf de la guerre », en ce qu'elles sont la principale ressource des belligérants et constituent une cible militaire et stratégique (Renauld 2005:8).

Le désordre créé dans le secteur minier, le principal qui alimentait le budget de l'État il y a peu, comporte un énorme prix à payer pour l'État congolais qui a relancé le processus démocratique avec difficulté. Et pourtant, le régime démocratique, constate André Mbata (2012:172), serait le plus coûteux sur le plan social et financier.

Impact du financement des activités des groupes armés sur la gouvernance démocratique

Le financement des activités des groupes armés comporte d'énormes conséquences sur la gouvernance démocratique en ce qu'il annihile tout effort de développement en posant de nouveaux défis aux pouvoirs publics. Le prix à payer est lourd pour la RDC puisque les conflits à répétition sur son territoire visent ses propres ressources naturelles. Dans un tel contexte, où l'attrait des ressources est à la fois une conséquence, mais aussi et surtout l'une des principales causes de la poursuite de ces conflits (Renauld 2005:9), le financement des groupes armés crée forcément une situation d'insécurité hostile à la conduite du processus électoral qui doit, par nature, être apaisé, mais il occasionne aussi la fuite des capitaux nécessaires à l'organisation des élections et au financement des projets de développement pour la satisfaction des besoins sociaux de base. Ces deux éléments semblent indispensables à l'émergence de la gouvernance démocratique qui impose en amont l'organisation des élections pour le choix des dirigeants appelés à présider aux destinées du peuple souverain.

Insécurité permanente gênant la pérennisation du processus électoral

Il est inutile d'organiser les élections dans un climat d'insécurité, car non seulement les élections tenues dans un tel contexte ont du mal à se dérouler sans incident, que ce soit au travers de l'intimidation des agents électoraux, du vandalisme ou du sabotage du matériel électoral, mais surtout de tels actes font le plus souvent que les résultats électoraux sont contestés par les acteurs, en particulier la population éléctrice et les perdants de l'élection concernée.

Ainsi la sécurité au cours d'un processus électoral doit-elle être globale, comme elle doit l'être en temps normal ; c'est dire que tous les acteurs impliqués dans un processus électoral doivent bénéficier de cette protection essentielle à l'expression du droit politique de participation à la gestion de la chose publique. Elle concerne avant tout les agents électoraux qui sont appelés pour les uns à organiser les opérations électorales sur le terrain, à les superviser pour les autres. Ces agents doivent être sécurisés pour éviter que les adeptes de tel ou tel autre candidat qui seraient irrités au cours du processus ne les agressent. Et dans le contexte particulier de la RDC, les agents électoraux consentent souvent d'énormes sacrifices pour atteindre les coins et recoins de la République, à cause notamment de l'absence d'infrastructures routières. Des groupes rebelles mal intentionnés pourraient être tentés de rendre la tâche difficile aux agents électoraux mobilisés en vue d'organiser le vote à tous les niveaux au jour et à l'heure voulus. L'expérience de 2006 et celle de 2011 nous en disent plus.

En effet, en 2011, au cours de la période préélectorale, la situation sécuritaire était très préoccupante sur toute l'étendue du territoire national, particulièrement à l'est dans les provinces du Nord et du Sud-Kivu. Plusieurs zones du pays n'avaient pas encore connu de paix, en dépit des efforts déployés par le gouvernement pour étendre l'autorité de l'État sur l'ensemble du territoire national (CENCO 2011:409). La LRA (Lord's Resistance Army) inquiétait et tuait impunément, dans les zones des Haut et Bas-Uélé, des citoyens congolais sur leur propre territoire, sans oublier les autres groupes armés qui opéraient dans le Nord et le Sud-Kivu. D'autres villes comme Kinshasa, la capitale, étaient également caractérisées par une insécurité très poussée à la veille des élections. Cette situation d'insécurité avait d'ailleurs suscité une psychose déstabilisante au sein de la population à l'approche des élections (CENCO 2011:409).

De même, l'émergence de la rébellion du M23, quatre mois après l'annonce des résultats de l'élection présidentielle du 28 novembre 2011, excluait la possibilité d'achever le processus qui devait aboutir à l'organisation des élections provinciales et locales en 2012 dans la mesure où tous les efforts du gouvernement étaient désormais fixés sur l'éradication de ce mouvement.

L'insécurité a également ce désavantage de faire participer les étrangers à la gestion des affaires publiques, réservée en principe aux seuls nationaux. Dans un pays comme la RDC, caractérisé par l'absence des registres d'état civil et où il n'y a eu recensement de la population qu'une seule fois depuis l'accession du pays à l'indépendance, soit en 1984, l'insécurité créée par

les groupes armés favorise l'enrôlement des étrangers qui acquièrent ainsi la qualité d'électeur et de candidat. À l'est de la RDC, l'enrôlement des étrangers est devenu inévitable à cause du cycle de conflits et de la litanie de groupes armés nationaux et étrangers qui y sévissent, depuis deux décennies. En 2011, les résultats de l'enregistrement de certains territoires dans les deux Kivus, au Maniema et dans l'ancienne province du Katanga ont été parfois largement supérieurs aux projections faites (MOE-EU 2012:33).

En 2006, le processus électoral a pu être mené sans incident majeur sur le plan sécuritaire du fait du retrait progressif des troupes étrangères sur le territoire congolais et du consensus dégagé à Sun City entre les protagonistes congolais dont les armées devaient être intégrées dans les FARDC. Mais dès lors que ce consensus s'est effrité au fil du temps, la question sécuritaire est devenue l'une des préoccupations majeures qui menacent d'interrompre à coup sûr l'élan pris sur le chantier de la démocratisation.

À ce jour, l'on ne manquera pas de faire observer que, malgré le report des élections présidentielles et législatives nationales qui devaient se tenir en 2016, leur organisation en décembre 2017, conformément à l'accord politique du 31 décembre 2016, s'est révélée utopique – suivant les déclarations avant-gardistes de l'administration électorale – à cause de l'insécurité créée au centre du pays dans la province du Kasai par la milice du défunt chef coutumier, Kamwina Nsapu, qui a occasionné plusieurs pertes en vies humaines, ainsi que de nombreux déplacés internes. La crainte pour les agents de la CENI d'opérer dans un tel contexte et la psychose créée parmi les populations ont retardé le processus d'enrôlement des électeurs qui devait se clôturer le 31 juillet 2017, tel qu'initialement prévu.

L'insécurité semble donc être utilisée comme une arme déstabilisatrice du processus électoral. D'où la thèse de l'instrumentalisation des conflits armés par les dirigeants politiques hostiles à l'alternance démocratique, car l'insécurité a pour objectif soit d'influencer ou d'altérer les résultats des urnes, soit d'empêcher purement et simplement l'organisation des scrutins en cas de force majeure.

Sans doute la permanence des groupes armés sur le sol congolais, nourris par les délices de la nature, constitue-t-elle une menace sérieuse qui plane sur la pérennisation du processus électoral dans un contexte où l'autofinancement des groupes armés par le pillage et l'exploitation des richesses du sol et du sous-sol constitue un manque à gagner pour l'économie congolaise en crise, qui ne parvient pas à financer sur ses fonds propres ses processus électoraux et satisfaire les besoins sociaux de base de sa population.

Fuite des capitaux nécessaires à l'organisation des élections et à la satisfaction des besoins sociaux de base

Le sol et le sous-sol de la RDC comportent d'importantes richesses qui font de ce pays un « géant minier » ou un « scandale géologique ». Mais cette abondance de richesses contraste infortunément avec la misère indescriptible dans laquelle vit le peuple congolais. Les pratiques de prédation enregistrées dans le secteur de la gestion des ressources naturelles, source principale de revenus du budget national, sont très inquiétantes. Elles privent l'État des ressources nécessaires pour relancer son économie, financer ses cycles électoraux et répondre aux besoins sociaux de base. L'exploitation illégale des ressources naturelles constitue, dans ce sens, le goulet d'étranglement de tout effort de développement, en ce que les pratiques illégales ont pour finalité de contourner « la chaîne de prélèvement public qui doit normalement servir à financer le fonctionnement des institutions étatiques » (Jacquemot 2009:200).

Depuis le déclenchement de la deuxième guerre du Congo en août 1998, « personne ne saura jamais les quantités réelles de minerais sorties du pays. Les vraies exportations n'ont rien à voir avec les statistiques reprises dans les documents officiels » (Jacquemot 2009:201). Le rapport de Global Witness 2016 montre comment, par exemple, lors de la récente ruée vers l'or le long de la rivière Ulindi, dans le territoire de Shabunda, l'État s'est appauvri alors que des groupes armés, une société minière étrangère Kun Hou Mining et les autorités ont empoché des millions de dollars. Cette ruée a débouché sur la production de plus d'une tonne d'or par an, d'une valeur approximative de 38 millions de dollars, dont ont bénéficié ces derniers au détriment de l'État congolais et des populations locales.

À ce jour, toute l'économie congolaise est désarticulée, avec une fragilité du cadre macroéconomique, une hyper-inflation de la monnaie nationale et une hausse des prix des biens de première nécessité. On dirait que le gouvernement est à la croisée des chemins, ne sachant comment sortir de l'impasse. Avec un budget de quelque 7 milliards de dollars pour l'exercice 2017, revu à 5 milliards pour l'exercice 2018 pour une population estimée à plus de 70 millions d'habitants et une superficie territoriale de 2 345 000 km², l'on peut s'imaginer les difficultés que rencontre le gouvernement dans la gestion du pays, encore que le financement de ce budget soit majoritairement attendu de partenaires financiers internationaux. Certains ont fait prévaloir le paradigme de « la malédiction des matières premières », considérant que les pays qui regorgent d'abondantes richesses sont exposés au conflit et à la convoitise et donc condamnés au sous-développement. Cependant, une telle thèse ne saurait être soutenue que dans le contexte des États fragiles, caractérisés par une instabilité politique chronique.

Quant au financement du processus électoral, la RDC n'avait contribué aux élections de 2006 qu'à concurrence de 10 pour cent contre 90 pour cent pour la communauté internationale. En 2011, la tendance s'était renversée avec 75 pour cent pour le gouvernement congolais contre 25 pour cent pour la communauté internationale. Mais très vite, et aux moindres contacts avec les chocs exogènes, le gouvernement a manqué des moyens permettant d'organiser les élections en 2016. Il a même manqué de 2 millions de dollars pour organiser les élections des gouverneurs de nouvelles provinces en octobre 2015. À ce jour, le budget électoral, qui s'élève à la somme colossale de 1,8 milliard de dollars pour l'ensemble du processus comprenant des élections nationales, provinciales et locales a effrayé le gouvernement qui a déjà fait savoir, par le biais de son ministre du Budget, qu'il s'agit d'une somme qu'il sera difficile de mobiliser. Ces éléments constituent une preuve supplémentaire de la faillite de l'État congolais (Kankwenda Mbaya 1992) dont l'économie, basée sur l'exploitation des ressources naturelles, souffre énormément à cause du pillage de ces ressources et de la mauvaise gestion de celles qui restent disponibles (Ngoma Binda *et al.* 2010:119). Comment sortir de l'impasse ?

Quelques perspectives à envisager

L'éradication des groupes et milices armés sur le sol de la RDC devrait en amont passer par deux axes : d'une part, la restauration de l'autorité de l'État et la redynamisation de la justice sont impératives et, de l'autre, les sources économiques et financières des rebelles devront être asséchées.

Impératif de la restauration de l'autorité de l'État et de la redynamisation de la justice

Il semble établi à l'unanimité que la RDC est un État en faillite. Il s'agit en effet d'un État caractérisé par des insuffisances très graves dans l'exercice des attributs de la puissance publique, particulièrement en ce qui concerne la défense de l'intégrité du territoire national. Et comme on l'a ci-dessus rappelé, les différentes stratégies de lutte contre les mouvements rebelles ont toutes été vouées à l'échec en ceci qu'elles n'ont pas arrêté les flux financiers illicites qui les alimentent.

L'on est d'avis, avec la dernière stratégie du gouvernement, de passer à l'offensive avec les opérations militaires appuyées par la MONUSCO. Cependant, aucune offensive militaire ne peut produire des résultats durables sans une réforme aboutie des services de sécurité, particulièrement de l'armée. Il semble que la fondation d'un État de droit démocratique repose aussi sur la constitution d'une armée nationale dotée d'une capacité de défense dissuasive et crédible (Mwayila Tshiyembe 2003:137).

La porosité des frontières nationales, la permanence et surtout la prolifération des groupes armés, qui sont passés à plus de soixante-dix en 2017 contre une trentaine en 2008, les massacres à répétition des populations à l'est du pays démontrent à suffisance que la réforme de l'armée devrait être repensée. Et l'une des faiblesses de cette armée est d'avoir intégré d'anciens chefs rebelles, dont l'indiscipline constitue une menace permanente de retour à la rébellion, étant donné l'attrait des ressources naturelles qui enrichissent scandaleusement et en toute impunité.

La restauration de l'autorité de l'État devrait s'analyser aussi sur le plan de sa capacité à juger les auteurs des crimes économiques, des crimes du droit international des droits de l'homme et du droit international humanitaire. Les groupes et mouvements rebelles dans l'est de la RDC s'en rendent coupables, mais seuls quelques chefs militaires ont été mis sur les bancs des accusés, notamment par la justice pénale internationale (Mampuya Kanunk'a-Tshiabo 2016:943). L'article 56 de la Constitution congolaise prévoit pourtant que

Tout acte, tout accord, toute convention, tout arrangement ou tout autre fait qui a pour conséquence de priver la nation, les personnes physiques ou morales de tout ou partie de leurs propres moyens d'existence tirés de leurs ressources ou de leurs richesses naturelles, sans préjudice des dispositions internationales sur les crimes économiques, est érigé en infraction de pillage punie par la loi.

De même, l'article 9 prévoit que l'État exerce une souveraineté permanente sur son sol et son sous-sol, consacrant donc la souveraineté sur les ressources naturelles.

Mais de telles dispositions sont restées lettre morte dans la mesure où les exploitants illégaux des richesses nationales, en l'occurrence les seigneurs de guerre, évoluent en toute impunité sur le sol congolais dont ils contrôlent une partie du territoire national sous les yeux impuissants du gouvernement et de la justice. L'un des maux dont souffre la justice congolaise est sa politisation, à telle enseigne que les poursuites sont diligentées à la suite du ton donné par les autorités exécutives. C'est un fait que les anciens rebelles qui ont semé la mort et la désolation sont devenus aujourd'hui les maîtres sur la scène politique. La plupart des dirigeants au sommet de l'État sont d'anciens rebelles qui, à la suite des accords politiques, se sont vus octroyer des postes de responsabilité au sein de l'État, au mépris des populations victimes des actes de barbarie dont ils seraient les auteurs. On observe que depuis 1965 le pouvoir est, au Congo-Kinshasa, l'affaire des militaires et des rebelles. Cette situation fait prévaloir la thèse du complot au sommet de l'État dans la mesure où la rébellion et l'exploitation illégale des ressources

naturelles sont utilisées par les dirigeants politiques pour barrer la route au processus démocratique. La justice a sans doute un rôle à jouer pour décourager les actes de barbarie, de pillage et d'exploitation illégale des ressources naturelles, cependant son indépendance doit être avant tout préservée. La restauration de l'autorité de l'État et la redynamisation de la justice devraient s'accompagner de la définition d'une politique durable de gestion des ressources naturelles, privant les groupes rebelles de leurs moyens de subsistance.

Définir une politique durable de gestion des ressources naturelles

Les ressources naturelles constituent la source principale du financement du budget national de la RDC. Et dans la mesure où le désir de contrôler les ressources naturelles et leur exploitation justifie la persistance des conflits armés sur le sol congolais, la meilleure politique de lutte contre les groupes armés devrait passer par une solide politique de gestion des ressources naturelles ayant pour objectif de casser leurs sources d'approvisionnement. À ce jour, l'on peut se féliciter de certaines mesures prises dans les organisations internationales universelles, régionales et sous-régionales pour lutter contre les minerais de sang en provenance de la RDC. Néanmoins, ces mesures ont essayé de traiter le problème et non la cause profonde réelle (Kabemba 2011:2). Cette cause réelle profonde est sans nul doute l'incapacité de l'État à imposer son autorité sur son territoire.

Ainsi, une fois l'autorité de l'État restaurée, une politique solide de gestion de ressources naturelles et minérales devra être mise en place. Le code minier de 2002 se révèle inadapté pour répondre au défi des minerais de sang, ce qui justifie sa révision en cours. À son état actuel, ce code est caractérisé par son extraversion, mettant l'accent sur l'attraction des investisseurs étrangers. Une telle orientation a été, semble-t-il, inspirée des principes de la mondialisation néolibérale véhiculés par les institutions financières internationales, et entre en contradiction avec l'option de l'économie sociale du marché adoptée par la RDC (Cihunda 2014:403).

Dans cette politique nationale, dont les lignes maîtresses doivent être définies dans le code minier, il faudra qu'au-delà des mesures déjà prises sur le plan mondial, qui se situent en aval de l'exploitation des ressources, l'accent soit mis sur la cartographie de tous les sites miniers et l'application stricte des conditions d'accès y relatives et relatives à leur exploitation. L'on s'aperçoit, dans tous les cas, que les capacités administratives de l'État devront être aussi renforcées, particulièrement celles de l'administration minière.

Conclusion

Les groupes armés qui sévissent sur le territoire congolais et de manière particulière dans l'est du pays s'autofinancent grâce au pillage et à l'exploitation illégale des ressources naturelles dont regorgent son sol et son sous-sol, les conflits du Congo étant « des activités hautement lucratives ». De ce fait, la *cupidité* se présente comme le principal fondement de la permanence des conflits armés à l'est de la RDC, les autres raisons servant de prétexte au contrôle, à l'exploitation et au pillage des ressources.

Ce qui explique que toutes les mesures visant à éradiquer les groupes armés et les mouvements rebelles ont été l'occasion de leur fragmentation, les faisant passer aujourd'hui à plus de soixante-dix groupes armés. Cette situation est très préjudiciable à la gouvernance démocratique, qui est contraire à l'insécurité et nécessite, par ailleurs, d'importants moyens financiers pour l'organisation des élections et la satisfaction des besoins sociaux de base. Il semble donc que la meilleure façon de lutter contre la prolifération des groupes armés sur le sol congolais passe, d'une part, par la restauration de l'autorité de l'État sur l'ensemble du territoire national et la re-dynamisation de la justice, et, de l'autre, par la définition d'une politique durable de gestion du secteur minier, visant avant tout à priver les groupes armés des moyens de leur politique. Mais dans tous les cas, la restauration de l'autorité de l'État impose dans le contexte actuel l'alternance démocratique au sommet de l'État.

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